THE TRADE REFORM ACT OF 1973

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 10710

AN ACT TO PROMOTE THE DEVELOPMENT OF AN OPEN, NONDISCRIMINATORY, AND FAIR WORLD ECONOMIC SYSTEM, TO STIMULATE THE ECONOMIC GROWTH OF THE UNITED STATES, AND FOR OTHER PURPOSES

MARCH 4, 5, 6, 7, 21, 22, 25, 26, 27, 28, 29, APRIL 1, 2, 3, 4, 5, 8, 9, AND 10, 1974

PART 1

Administration Witnesses—Department of the Treasury and Office of Special Representative for Trade Negotiations

(March 4 and 5, 1974)

Printed for the use of the Committee on Finance

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(PART 1)

THE TRADE REFORM ACT OF 1973

MONDAY, MARCH 4, 1974

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 2221, Dirksen Senate Office Building, Senator Russell B. Long (chairman) presiding.

Present: Senators Long (presiding), Ribicoff, Byrd of Virginia, Nelson, Mondale, Bennett, Curtis, Fannin, Hansen, Packwood, and Roth.

OPENING STATEMENT OF THE CHAIRMAN

The CHAIRMAN. The committee will come to order.

The Committee on Finance today commences 4 days of public hearings on the bill, H.R. 10710, the Trade Reform Act of 1973. This legislation would delegate greater authority to the President to negotiate trade agreements than has ever been delegated to any President under prior trade acts. The President, for example, would be given authority to change domestic laws subject to congressional disapproval; to ameliorate U.S. balance of payments and inflation problems; to extend nondiscriminatory tariff treatment to the imports of Communist countries; and to provide tariff preferences for imports of less developed countries.

The committee intends to give full consideration to all of the issues which this bill raises. In addition, there are several new crucial issues, such as the shortage of energy resources and the availability of other raw materials, which are not addressed by H.R. 10710, but which must be considered in the context of major trade legislation.

This week we will receive testimony from representatives of the executive branch. On a future date, to be announced, the committee will receive testimony from the general public.

A great deal of international economic history has been written since Congress last delegated the Executive negotiating authority in the Trade Expansion Act of 1962. In my opinion, much of that history has been unfavorable to this country.

In 1962, we approached the Kennedy round with deep confidence in the intentions of our trading partners and abiding faith that our negotiators would be tough Yankee traders. The Kennedy round brought about the largest tariff reductions in U.S. history. Since then we have experienced a series of huge American trade and payments deficits, several dollar devaluations and unprecedented domestic inflation which have eroded our economy's international position. The European Common Market in many ways is more protectionist now than it was before the Kennedy round.

In 1962, we enjoyed a modest trade surplus on a c.i.f. basis—a method of accounting which is the only legitimate way to measure balance of trade—of approximately $900 million. Our balance of payments deficit for that year was a livable $2.9 billion on the liquidity basis.

Ten years later our $900 million trade surplus had become an $11 billion deficit. Our payments deficit had grown from a bearable $2.9 billion to an intolerable $14.7 billion. Not surprisingly, the dollar had become unwelcome in most of the capitals of the world. Last year, 1973, there was a sharp improvement, but a large part of that can be attributed to huge agricultural exports to the Soviet Union, which many of us feel have contributed importantly to the 8.8 percent inflation in 1973.

I am not certain that we have learned the lesson of the last decade. The bloom is off the rose of "Atlantic partnership," as our friends in Europe concentrate on bilateral deals with oil producing nations and their former colonies. I'm not at all sure they want to negotiate on a basis of fairness and reciprocity. If thy were sincre, they would offer us fair compensation for the $1 billion trade loss that we will suffer from the enlargment of the European Common Market.

I recognize that the United States must play a major role in leading the world and shaping its economy. Our country is the world's largest single market. The value of our foreign trade is now $140 billion exports added to imports. We are a trading nation, and we thrive on competition. Given a fair deal, our industry can compete with the world and be strengthened in that competition.

I was very much in favor of the Trade Expansion Act of 1962. I still desire an "open, nondiscriminatory, and fair world economic system," but I am tired of the United States being the "least favored nation" in a world which is full of discrimination. We can no longer expose our markets, while the rest of the world hides behind variable levies, export subsidies, import equalization fees, border taxes, cartels, government procurement practices, dumping, import quotas, and a host of other practices which effectively bar our products.

I realize that we are not perfect; I realize we have barriers of our own. Yet I invite you to take a look at the number of foreign cars on our streets and ask why there are practically no Datsuns in Europe and practically no Volvos in Japan.

What I am saying is that trade legislation comes before the committee bearing a heavy burden. It must be demonstrated that the next decade of our trading relations will be different from the last. We must be shown that the future will not be like the past.

We have had numerous press releases issued by the committee relative to this bill. We will print them in the hearings at this point and also a copy of H.R. 10710, the Trade Reform Act. Hearing continues on page 5.

The CHAIRMAN. We are pleased to have with us today the Honorable George P. Shultz, Secretary of the Treasury, accompanied by Mr. Peter Flanigan, Executive Director of the Council on International Economic Policy. I would suggest that the two witnesses present their statements before we commence questions.

Now, Ambassador Eberle is also here. I would hope, however, that we would reserve most of our questions for Mr. Eberle for tomorrow.

My understanding is Mr. Eberle is the detail man and the Secretary and Mr. Flanigan are going to cover the broad scope of the program. Mr. Eberle is available to us to cover the fine points of it, but in order to permit the witnesses to get on with their work as soon as possible I thought it would be best if we heard the statements of Mr. Shultz and Mr. Flanigan this morning and ask them the questions that we have in mind for them.

Opening Statement of Senator Ribicoff

Senator Ribicoff. Mr. Chairman, I have a short statement.

What must be realized is that this bill is more than a year old. Conditions have changed drastically during the past year under the inpact of the fuel shortages, and the situation in the European Community. Even as we move towards energy self-sufficiency and more rational allocation of existing supplies a larger and even more ominous problem looms on the horizon. This is a desperate scramble by all industrialized nations for natural resources of all kinds, food, fiber, and minerals. We are already suffering from a highly inflationary effect of this worldwide race for raw materials.

The Trade Reform Act before us today does not provide answers to the critical problem of shortages of industrial raw materials and foodstuffs. Any trade legislation that Congress finally enacts this year also must provide more relief for American firms and workers from unfair trade practices abroad and greater assurances that the will of Congress will be implemented.

Mr. Chairman, if we are having difficulty coping with an Arab oil boycott affecting less than 10 percent of our total oil consumption making an international squeeze play affecting such minerals as chromium, tin, manganese, platinum, cobalt, nickel, bauxite, and asbestos where we are from 80 percent to 100 percent dependent on foreign sources. Somehow you know that the countries which produce these resources are watching the results of the Arab oil squeeze.

The mathematics and politics here are very simple. The fewer producers of a commodity and the more inelastic the demand, the easier it is for the producers to get together and agree to raise prices.

Unless we can work together on this new danger with our trading partners the West will be in for the kind of cutthroat competition where no nation can afford the price of winning. Our trade bill, therefore, must be a signal both to our trading partners and to our suppliers of raw materials that if they will not agree to fair rules of the game, we will take steps to protect ourselves and the American economy is still by far the strongest in the world.

International agreements are needed on export controls, assured access to raw materials, food and manufactured goods, and on sanctions against countries which impose export embargoes that substantially injure other nations.

Our Government should be authorized to retaliate against countries which wage economic warfare against us.

I will also propose that developing countries desiring preferences for their goods in American markets must not discriminate against the United States in obtaining access to raw materials.

I will have other amendments designed to strengthen America's hands in times of shortages, no matter what happens at the international bargaining table.

These are some of the minimum requirements of economic security which this country's workers and its industries need in a very unstable, uncertain world.

Thank you, Mr. Chairman.

Opening Statement of Senator Roth

Senator Roth. Mr. Chairman, I have a short statement.

The importance of foreign trade to our economy and way of life is not widely recognized. Trade is a bread and butter issue to millions of Americans. It accounts for billions of dollars in our gross national product and millions of jobs. A healthy balance of trade is associated with boom and prosperity. Large imbalances are associated with unemployment, recession, devaluation and inflation. Our ability to export and to maintain a strong dollar are directly related to our ability to import essential supplies—such as oil.

What this committee does or does not do with respect to the Trade Reform Act will determine the general thrust of our trade policies for the next several years. New authorities are being requested—authorities to enter negotiations, to retaliate effectively against foreign dumping and unfair foreign trade practices, to assist in controlling inflation and correcting fundamental imbalances in our overseas payments. We must scrupulously examine each and every one of these authorities.

There are hard choices to be made and a lot of work to be done—no question about that. The essential thing is that we make these choices and that we do not permit our trade policies simply to drift. Polls have shown that confidence in Government—including Congress—is very low. No small part is due to what many regard as a lack of decisiveness and leadership, an inability of Congress to act and to act with precision.

This committee has a great deal of proposed legislation in the areas of health, taxes, and commodities yet to consider in this session. These bills are also of great importance to the American people. It is doubly important, therefore, that we move forward with the trade bill. I hope Government and private witnesses will keep the rhetoric to a minimum and will focus on the real issues. I believe the committee has an important opportunity to provide leadership by discharging its responsibilities not only with care, but also with dispatch.

In closing, Mr. Chairman, I would just like to say that I think it is extremely important, and I would ask you that we try to work out the schedule immediately as to when the other witnesses are going to appear. I can say as one person whose calendar is already getting full that I think it is important we know sometime this week what the time schedule is going to be.

Thank you, sir.

The Chairman. I suggest that we let the Secretary and Mr. Flanigan, each make his statement before we ask any questions on their testimony.

We will print the bill at this point in the record along with a couple of press releases, the committee has issued in the past couple of months relative to the Trade Reforming Act.

[The material referred to follows. Oral testimony begins on page 163.]

PRESS RELEASE

FOR IMMEDIATE RELEASE
March 12, 1974

COMMITTEE ON FINANCE
UNITED STATES SENATE
2227 Dirksen Senate Office Bldg.

PUBLIC TESTIMONY ON TRADE REFORM ACT TO COMMENCE ON MARCH 21

The Honorable Russell B. Long (D., La.), Chairman of the Senate Finance Committee, today announced that the Committee will resume public hearings, beginning March 21, 1974, on The Trade Reform Act (H. R. 10710). The Chairman said the Committee will hear testimony from public witnesses from Thursday, March 21, through Wednesday, April 10. The hearings will begin each day at 10:00 a. m. in Room 2221 of the Dirksen Senate Office Building.

The Chairman said that because an unusually large number of requests to testify have been received in response to the Committee's call last December for public testimony, the Committee will not be able to schedule all those who have requested to testify. Those persons who are not scheduled to appear in person to present oral testimony are invited to submit written statements. The Chairman emphasized that the views presented in such written statements will be as carefully con sidered by the Committee as if they were presented orally.

In view of the large number of individuals and organizations who have requested to testify, all parties who are scheduled to testify orally are urged to comply with the guidelines below:

Notification of Witnesses. --Parties who have submitted written requests to testify will be notified as soon as possible as to the time and date they are scheduled to appear. Once a witness has been advised of the time and date of his appearance, rescheduling will not be allowed. If a witness is unable to testify at the time he is scheduled to appear, he may file a written statement for the record of the hearing.

Consolidated Testimony. -- The Chairman also stated that the Committee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Committee. This procedure will enable the Committee to receive a wider expression of views on the total bill than it might otherwise obtain. The Chairman praised witnesses who in the past have combined their statements in order to conserve the time of the Committee.

Panel Groups. -- Groups with similar viewpoints but who cannot designate a single spokesman will be encouraged to form panels. Each panelist will be required to restrict his or her comments to no longer than a ten minute summation of the principal points of the written statements. The panelists are urged to avoid repetition whenever possible in their presentations.

Legislative Reorganization Act. --The Chairman observed that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress --

> "...to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

The statute also directs the staff of each Committee to prepare digests of all testimony for the use of Committee Members.

Chairman Long stated that in light of this statute and in view of the large number of witnesses who desire to appear before the Committee in the limited time available for the hearing, all witnesses who are scheduled to testify must comply with the following rules:

> (1) All statements must be filed with the Committee at least one day in advance of the day on which the witness is to appear. If a witness is scheduled to testify on a Monday or Tuesday, he must file his written statement with the Committee by the Friday preceding his appearance.
>
> (2) All witnesses must include with their written statement a summary of the principal points included in the statement.
>
> (3) The written statements must by typed on letter-size paper (not legal size) and at least 100 copies must be submitted to the Committee.
>
> (4) Witnesses are not to read their written statements to the Committee, but are to confine their ten-minute oral presentations to a summary of the points included in the statement.
>
> (5) Not more than ten minutes will be allowed for the oral summary.

Witnesses who fail to comply with these rules will forfeit their privilege to testify.

Written Statements.-- Witnesses who are not scheduled for oral presentation, and others who desire to present a statement to the Committee, are urged to prepare a written position of their views for submission and inclusion in the printed record of the hearings. He emphasized that these written statements would also be digested by the staff for presentation to the Committee during its executive sessions, and that they would receive the same careful consideration by the Committee as though they had been delivered orally. These written statements should be submitted to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building not later than Thursday, April 11, 1974.

PRESS RELEASE

FOR IMMEDIATE RELEASE
February 20, 1974

COMMITTEE ON FINANCE
UNITED STATES SENATE
2227 Dirksen Senate Office Bldg.

FINANCE COMMITTEE TO HEAR SECRETARY KISSINGER ON TRADE REFORM ACT MARCH 7, 1974

In Finance Committee Press Release No. 55, Dated February 7, 1974, it was announced that the Honorable Henry A. Kissinger, Secretary of State, would appear before the Committee to present testimony on the Trade Reform Act (H. R. 10710) on March 4 and 5. Instead, Secretary Kissinger will be appearing on Thursday, March 7.

The schedule of Administration witnesses who will appear on the Trade Reform Act is therefore revised as follows:

Monday, March 4 and
Tuesday, March 5

The Honorable George P. Shultz, Secretary of the Treasury

The Honorable William D. Eberle, Special Representative for Trade Negotiations

The Honorable Peter M. Flanigan, Executive Director, Council on International Economic Policy

Wednesday, March 6

The Honorable Earl L. Butz, Secretary of Agriculture
The Honorable Peter J. Brennan, Secretary of Labor
The Honorable Frederick B. Dent, Secretary of Commerce

Thursday, March 7

The Honorable Henry A. Kissinger, Secretary of State

As was stated in the February 7 press release, due to the possibility that the Committee may have to take up emergency legislation on energy-related matters, public witnesses have not yet been scheduled to testify on H. R. 10710. However, Chairman Russell B. Long stated that it is his intention to schedule public witnesses at a later date once the Committee's work schedule becomes clearer.

The hearings will begin at 10:00 a. m., March 4, 5, 6, and 7, and will be held in Room 2221, Dirksen Senate Office Building.

PR #58

PRESS RELEASE

FOR IMMEDIATE RELEASE
February 14, 1974

COMMITTEE ON FINANCE
UNITED STATES SENATE
2227 Dirksen Senate Office Bldg.

LONG REQUESTS ADMINISTRATION TESTIMONY ON TRADE DAMAGE PROJECTED FOR U. S. RESULTING FROM ENLARGEMENT OF EUROPEAN COMMON MARKET

Chairman Russell B. Long, (D., La.) asked today that administration witnesses testify before the Senate Finance Committee early in March on their negotiations to obtain compensation for an expected $1 billion in trade damage to the U.S. expected to result from the expansion of the European Common Market.

Secretary of State Henry Kissinger and other high administration officials are scheduled to appear before the Committee when it opens hearings on the House-passed Trade Reform Act of 1973.

Long expressed concern over the lack of progress in negotiations with the Common Market under Article XXIV:6 of the General Agreement on Tariffs and Trade (GATT) to receive compensation for the injury to U.S. trade. This is expected to result from the extension of preferential tariffs and a common agricultural policy to the new member-countries, the United Kingdom, Denmark and Ireland.

This extension will increase the degree of discrimination against U.S. exports and cause an additional damage to U.S. trade of about $1 billion. The Common Market has offered to compensate the U.S. for only about $130 million.

The Chairman cited President Nixon's recent International Economic Report, which said:

> "While the adoption of the Common External Tariff will result in the reduction of duties on some products exported to the new member-states, the EC has not yet offered the United States adequate compensating tariff reductions to offset their proposed withdrawals of concessions and duty increases."

Long said the issue should be settled before the U.S. begins a new round of multilateral trade negotiations and expressed his hope that satisfactory compensation could be secured before the Senate begins its deliberations on the trade bill.

Other administration officials who will testify before the Committee in the opening days of the hearings include: Treasury Secretary George P. Shultz; Special Trade Representative William D. Eberle; Peter M. Flanigan, Executive Director of the Council on International Economic Policy; Agriculture Secretary Earl L. Butz; Labor Secretary Peter J. Brennan and Commerce Secretary Frederick B. Dent.
P.R. #56

PRESS RELEASE

FOR IMMEDIATE RELEASE
December 26, 1973

COMMITTEE ON FINANCE
UNITED STATES SENATE
2227 Dirksen Senate Office Bldg.

CLARIFICATION OF DEADLINE FOR SUBMISSION OF WRITTEN STATEMENTS ON TRADE REFORM ACT OF 1973 FOR PARTIES NOT TESTIFYING BEFORE COMMITTEE

On December 14, the Finance Committee issued a press release which established January 11, 1974 as the deadline for requests to testify in the Committee's public hearings on the Trade Reform Act of 1973 (H. R. 10710). In the release, it was incorrectly indicated that the deadline for submission of written positions by witnesses not scheduled for oral testimony would also be January 11, 1974. Written statements by parties who do not wish to give oral testimony or who are not scheduled for such testimony must be submitted to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building not later than the conclusion of public hearings on the Trade Reform Act of 1973. As indicated in the December 14 press release, the dates of the hearings will be announced at a later time.

P. R. #49

PRESS RELEASE

FOR IMMEDIATE RELEASE
December 14, 1973

COMMITTEE ON FINANCE
UNITED STATES SENATE
2227 Dirksen Senate Office Bldg.

JANUARY 11 DEADLINE SET FOR REQUESTS TO TESTIFY BEFORE SENATE FINANCE COMMITTEE ON TRADE REFORM ACT OF 1973

The Honorable Russell B. Long (D., La.), Chairman of the Senate Finance Committee, today invited interested parties to submit written requests to testify in the Committee's public hearings on the Trade Reform Act of 1973 (H.R. 10710). Written requests to testify must be submitted no later than Friday, January 11, 1974, the Chairman emphasized.

Chairman Long stated that the Finance Committee intends to begin public hearings on the bill shortly after the Congress returns, at a date to be announced. All persons or organizations who wish to testify on the bill are requested to observe the following guidelines:

Requests to Testify. -- Witnesses desiring to testify during the public hearings must submit written requests to testify to Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Senate Office Bldg., Washington, D. C. 20510, not later than Friday, January 11, 1974. Witnesses will be notified as soon as possible as to the time and date they are scheduled to appear. Once a witness has been advised of the time and date of his appearance, rescheduling will not be allowed. If a witness is unable to testify at the time he is scheduled to appear, he may file a written statement for the record of the hearing.

Consolidated Testimony. -- The Chairman also stated that the Committee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Committee. This procedure will enable the Committee to receive a wider expression of views on the total bill than it might otherwise obtain. The Chairman praised witnesses who in the past have combined their statements in order to conserve the time of the Committee. And he urged very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

Legislative Reorganization Act. -- In this respect, the Chairman observed that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress --

> ". . . to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

The statute also directs the staff of each Committee to prepare digests of all testimony for the use of Committee Members.

Senator Long stated that in light of this statute and in view of the large number of witnesses who desire to appear before the Committee in the limited time available for the hearing, all witnesses who are scheduled to testify must comply with the following rules:

(1) All statements must be filed with the Committee at least one day in advance of the day on which the witness is to appear. If a witness is scheduled to testify on a Monday or Tuesday, he must file his written statement with the Committee by the Friday preceding his appearance.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 100 copies must be submitted to the Committee.

(4) Witnesses are not to read their written statements to the Committee, but are to confine their ten-minute oral presentations to a summary of the points included in the statement.

(5) Not more than ten minutes will be allowed for the oral summary.

Witnesses who fail to comply with these rules will forfeit their privilege to testify. Those who have already requested to testify need not submit a second request.

Written Statements. -- Witnesses who are not scheduled for oral presentation, and others who desire to present a statement to the Committee, are urged to prepare a written position of their views for submission and inclusion in the printed record of the hearings. These written statements should be submitted to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building not later than Friday, January 11, 1974.

P.R. # 48

30-229 O - 74 - 2

93D CONGRESS
1ST SESSION

H. R. 10710

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 1973
Read twice and referred to the Committee on Finance

AN ACT

To promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Trade Reform Act of 1973".

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SEC. 2. STATEMENT OF PURPOSES.

The purposes of this Act are, through trade agreements affording mutual trade benefits—

(1) to stimulate the economic growth of the United States and to maintain and enlarge foreign markets for the products of United States agriculture, industry, mining, and commerce; and

(2) to strengthen economic relations with foreign countries through the development of fair and equitable market opportunities and through open and nondiscriminatory world trade.

TITLE I—NEGOTIATING AND OTHER AUTHORITY

CHAPTER 1—RATES OF DUTY AND OTHER TRADE BARRIERS

SEC. 101. BASIC AUTHORITY FOR TRADE AGREEMENTS.

(a) Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes stated in section 2 will be promoted thereby, the President—

(1) during the 5-year period beginning on the date of the enactment of this Act, may enter into trade agree-

ments with foreign countries or instrumentalities thereof; and

(2) may proclaim such modification or continuance of any existing duty, such continuance of existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate to carry out any such trade agreement.

(b) (1) Except as provided in paragraph (2), no proclamation pursuant to subsection (a) (2) shall be made—

(A) in the case of a rate of duty existing on July 1, 1973, which is 25 percent ad valorem or less, decreasing such rate of duty to a rate below 40 percent of the rate existing on July 1, 1973; or

(B) in the case of a rate of duty existing on July 1, 1973, which is more than 25 percent ad valorem, decreasing such rate of duty to a rate below the higher of the following:

(i) 25 percent of the rate existing on July 1, 1973, or

(ii) 10 percent ad valorem.

(2) Paragraph (1) shall not apply in the case of any article for which the rate of duty existing on July 1, 1973, is not more than 5 percent ad valorem.

(c) (1) Except as otherwise provided in paragraph (2), no proclamation shall be made pursuant to subsection (a) (2) increasing any rate of duty to (or imposing) a rate above the higher of the following: (A) the rate which is 50 percent above the rate existing on July 1, 1934, or (B) the rate which is 20 percent ad valorem above the rate existing on July 1, 1973.

(2) The limitation set forth in paragraph (1) may be exceeded with respect to the conversion by the United States of a barrier to (or other distortion of) international trade into a rate of duty which affords substantially equivalent protection, to the extent that it is necessary to exceed such limitation to effectuate such conversion.

SEC. 102. NONTARIFF BARRIERS TO AND OTHER DISTORTIONS OF TRADE.

(a) The Congress finds that barriers to (and other distortions of) international trade are reducing the growth of foreign markets for the products of United States agriculture, industry, mining, and commerce, diminishing the intended mutual benefits of reciprocal trade concessions, and preventing the development of open and nondiscriminatory trade among nations. The President is urged to take all appropriate and feasible steps within his power (including the

full exercise of the rights of the United States under international agreements) to reduce or eliminate barriers to (and other distortions of) international trade. The President is further urged to utilize the authority granted by subsection (b) to negotiate trade agreements with other countries and instrumentalities providing on a basis of mutuality for the reduction or elimination of such barriers to (and other distortions of) international trade. Nothing in this subsection shall be construed as prior approval of any legislation which may be necessary to implement an agreement concerning barriers to (or other distortions of) international trade.

(b) (1) Whenever the President determines that any existing barriers to (or other distortions of) international trade of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes stated in section 2 will be promoted thereby, the President, during the 5-year period beginning on the date of the enactment of this Act, may enter into trade agreements with foreign countries or instrumentalities providing for the reduction or elimination of such barriers or other distortions.

(2) Except as provided in subsection (g) (1), no trade agreement entered into under this section may provide for any modification in a rate of duty imposed by the United States.

(c) (1) A principal United States negotiating objective under this section shall be to obtain with respect to each product sector of manufacturing, and with respect to the agricultural sector, competitive opportunities for United States exports to the developed countries of the world equivalent to the competitive opportunities afforded in United States markets to the importation of like or similar products, taking into account all barriers (including tariffs) to and other distortions of international trade affecting that sector.

(2) To the maximum extent appropriate to the achievement of the negotiating objective set forth in paragraph (1), trade agreements entered into under this section shall be negotiated, to the extent feasible, on the basis of each product sector of manufacturing and on the basis of the agricultural sector.

(3) For purposes of this subsection and of section 135, the Special Representative for Trade Negotiations together with the Secretary of Commerce or Agriculture, as appropriate, shall, after consultation with the Advisory Committee for Trade Negotiations established by section 135 and after consultation with interested private organizations, define appropriate product sectors of manufacturing.

(4) The President shall include in his statement on each trade agreement submitted to each House of the Congress

pursuant to section 162(a), a sector-by-sector analysis of the extent to which the objective set forth in paragraph (1) has been achieved.

(d) Before the President enters into any trade agreement under this section providing for the reduction or elimination of a barrier to (or other distortion of) international trade, he shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(e) (1) Whenever—

(A) the President enters into a trade agreement under this section providing for the reduction or elimination of a barrier to (or other distortion of) international trade, and

(B) the President submits such agreement (and the proclamations and orders proposed to be issued for the purpose of implementing such agreement) to the Congress for its approval in accordance with subsection (f),

such agreement shall enter into force with respect to the United States, and such proclamations and orders shall take effect if (and only if) the provisions of subsection (f) are complied with.

(2) The procedure set forth in subsection (f) may be used with respect to a trade agreement whether or not the

implementation of such agreement requires further action by the Congress.

(f) Any trade agreement submitted to the Congress under this subsection shall enter into force with respect to the United States, and the proclamations and orders required or appropriate to carry out such agreement which are submitted with such agreement shall take effect, if (and only if)—

(1) the President, not less than 90 days before the day on which he enters into such trade agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President delivers a copy of such agreement to the House of Representatives and to the Senate together with—

(A) a copy of the proclamations and orders, if any, proposed to be issued for the purpose of implementing such agreement and an explanation as to how the proclamations and orders affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interests of United States commerce and as to why each such proclamation and

order is required or appropriate to carry out the agreement; and

(3) before the close of the 90-day period after the day on which the copy of such agreement is delivered to the House of Representatives and to the Senate pursuant to paragraph (2), neither the House of Representatives nor the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval under the procedures set forth in section 151.

(g) If, in any trade agreement entered into under this section, it is provided that any trade barrier (or other distortion) of the United States with respect to an article is to be converted into a rate of duty affording substantially equivalent tariff protection, then—

(1) such agreement may also provide for the reduction of part or all of that portion of the rate of duty resulting from the conversion of the trade barrier (or other distortion) of the United States which is attributable to such conversion, and

(2) no agreement may be entered into under section 101 reducing to any extent the rate of duty with respect to such article unless the agreement entered into under this section is submitted to the Congress, and

on or before the time of such submission there is also submitted to the Congress—

(A) a clear statement of the reductions (if any) proposed to be taken under section 101 with respect to the column 1 rates of duty for such article, and

(B) the determination by the Tariff Commission of the rates of duty which afford substantially equivalent protection to the barrier (or other distortion) of the United States which is being converted.

(h) For purposes of this section, the term "barrier" includes the American selling price basis of customs valuation (19 U.S.C. sec. 1401a(e) and 1402(g)).

SEC. 103. STAGING REQUIREMENTS AND ROUNDING AUTHORITY.

(a) Except as otherwise provided in this section, the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement under section 101 shall not exceed the aggregate reduction which would have been in effect on such day if—

(1) a reduction of 3 percent ad valorem or a reduction of one-fifteenth of the total reduction under such agreement, whichever is greater, had taken effect on the date of the first proclamation pursuant to section 101(a)

(2) to carry out such trade agreement, and

(2) the remainder of such total reduction had taken effect at 1-year intervals after the date referred to in paragraph (1) in installments equal to the greater of 3 percent ad valorem or one-fourteenth of such remainder. This subsection shall not apply in any case where the total reduction in the rate of duty does not exceed 10 percent of the rate before the reduction.

(b) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitation provided by section 101 (b) or subsection (a) of this section by not more than whichever of the following is lesser:

(1) the difference between the limitation and the next lower whole number, or

(2) one-half of 1 percent ad valorem.

(c) (1) No reduction pursuant to a trade agreement under this title shall take effect more than 15 years after the date of the first proclamation to carry out such trade agreement.

(2) If any part of a reduction takes effect, then any time thereafter during which such part of the reduction is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining—

(A) the 1-year intervals referred to in subsection (a) (2), and

(B) the expiration of the 15-year period referred to in paragraph (1) of this subsection.

CHAPTER 2—OTHER AUTHORITY

SEC. 121. STEPS TO BE TAKEN TOWARD GATT REVISION; AUTHORIZATION OF APPROPRIATIONS FOR GATT.

(a) The President shall, as soon as practicable, take such action as may be necessary to bring trade agreements heretofore entered into, and the application thereof, into conformity with principles promoting the development of an open, nondiscriminatory, and fair world economic system, including (but not limited to):

(1) the revision of decisionmaking machinery in the General Agreement on Tariffs and Trade (hereinafter in this subsection referred to as "GATT") to more nearly reflect the balance of economic interest,

(2) the revision of article XIX of the GATT into a truly international safeguard mechanism which takes into account all forms of import restraints countries use in response to injurious competition or threat of such competition,

(3) the extension of GATT articles to conditions of trade not presently covered in order to move toward more fair trade practices,

(4) the adoption of international fair labor stand-

ards and of public petition and confrontation procedures in the GATT,

(5) the revision of GATT articles with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct rather than indirect taxes for revenue needs, and

(6) the revision of the balance-of-payments provision in the GATT articles so as to recognize import surcharges as the preferred means by which industrial countries may handle balance-of-payments deficits insofar as import restraint measures are required.

(b) There are hereby authorized to be appropriated annually such sums as may be necessary for the payment by the United States of its share of the expenses of the contracting parties to the General Agreement on Tariffs and Trade.

SEC. 122. BALANCE-OF-PAYMENTS AUTHORITY.

(a) Whenever the President determines that fundamental international payments problems require special import measures to restrict imports—

(1) to deal with a large and serious United States balance-of-payments deficit,

(2) to prevent an imminent and significant depreciation of the dollar in foreign exchange markets, or

(3) to cooperate with other countries in correcting an international balance-of-payments disequilibrium,

the President is authorized, for a period not exceeding 150 days (unless a longer period is authorized by Act of Congress)—

(A) to proclaim a temporary import surcharge, not to exceed 15 percent ad valorem, in the form of duties (in addition to those already imposed, if any) on articles imported into the United States; and

(B) to proclaim temporary limitations through the use of quotas on the importation of articles into the United States.

Subparagraph (B) shall apply (i) only if international trade or monetary agreements to which the United States is a party permit the imposition of quotas as a balance-of-payments measure, and (ii) only to the extent that the fundamental imbalance cannot be dealt with effectively by a surcharge proclaimed pursuant to subparagraph (A). Any temporary import surcharge proclaimed pursuant to subparagraph (A) shall be treated as a regular customs duty.

(b) Whenever the President determines that fundamental international payments problems require special import measures to increase imports—

(1) to deal with a large and persistent United States balance-of-payments surplus, or

(2) to prevent significant appreciation of the dollar in foreign exchange markets,

the President is authorized, for a period of 150 days (unless a longer period is authorized by Act of Congress)—

(A) to proclaim a temporary reduction (of not more than 5 percent ad valorem) in the rate of duty on any article; and

(B) to proclaim a temporary increase in the value or quantity of articles which may be imported under any import restriction, or a temporary suspension of any import restrictions;

except with respect to those articles where in his judgment such action would cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, or to impairment of the national security, or would otherwise be contrary to the national interest.

(c) (1) Import restricting actions proclaimed pursuant to subsection (a) shall be applied consistently with the principle of nondiscriminatory treatment. In addition, any quota proclaimed pursuant to subparagraph (B) of subsection (a) shall be applied on a basis which aims at a distribution of trade with the United States approaching as closely as possible that which various foreign countries might have expected to obtain in the absence of such restrictions.

(2) Notwithstanding paragraph (1), if the President determines that the purposes of this section would best be

served by action against one or more countries having large or persistent balance-of-payments surpluses, he may exempt all other countries from such surcharge.

(3) After such time when there enters into force for the United States new rules regarding the application of surcharges as part of a reform of internationally agreed balance-of-payments adjustment procedures, the exemption authority contained in paragraph (2) shall be applied consistently with such new international rules.

(4) It is the sense of Congress that the President seek modifications in international agreements aimed at allowing the use of surcharges in place of quantitative restrictions (and providing rules to govern the use of such surcharges) as a balance-of-payments adjustment measure within the context of arrangements for an equitable sharing of balance-of-payments adjustment responsibility among deficit and surplus countries.

(d) Import restricting actions proclaimed pursuant to subsection (a) shall be of broad and uniform application with respect to product coverage except where the President determines, consistently with the purposes of this section, that certain articles or groups of articles should not be subject to import restricting actions because of the needs of the United States economy. Such exceptions shall be limited to the unavailability of domestic supply at reasonable prices, the nec-

ossary importation of raw materials, avoiding serious dislocations in the supply of imported goods, and other similar factors. In addition, uniform exceptions may be made where import restricting actions would be unnecessary or ineffective in carrying out the purposes of this section, such as with respect to articles already subject to import restrictions, goods in transit, or goods under binding contract. Neither the authorization of import restricting actions nor the determination of exceptions with respect to product coverage shall be made for the purpose of protecting individual domestic industries from import competition.

(e) Any quantitative limitation proclaimed pursuant to subparagraph (B) of subsection (a) on the quantity or value, or both, of an article or group of articles—

(1) shall permit the importation of a quantity or value not less than the quantity or value of such article or articles imported into the United States from the foreign countries to which such limitation applies during the most recent period which the President determines is representative of imports of such article or articles, and

(2) shall take into account any increase since the end of such representative period in domestic consumption of such article or articles and like or similar articles of domestic manufacture or production.

(f) The President may at any time, consistent with the provisions of this section, suspend, modify, or terminate, in whole or in part, any proclamation under this section either during the initial 150-day period of effectiveness or as extended by subsequent Act of Congress.

(g) No provision of law authorizing the termination of tariff concessions shall be used to impose a surcharge on imports into the United States.

SEC. 123. AUTHORITY TO SUSPEND IMPORT BARRIERS TO RESTRAIN INFLATION.

(a) If, during a period of sustained or rapid price increases, the President determines that supplies of articles, imports of which are dutiable or subject to any other import restriction, are inadequate to meet domestic demand at reasonable prices, he may, either generally or by article or category of articles—

(1) proclaim a temporary reduction in, or suspension of, the duty applicable to any article; and

(2) proclaim a temporary increase in the value or quantity of articles which may be imported under any import restriction.

Proclamations under this section in effect at any time shall not apply to more than 30 percent of the estimated total value of United States imports of all articles during the time such actions are in effect.

(b) (1) The President shall exclude from the application of any proclamation issued under subsection (a) any article if in his judgment such action would cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, or to impairment of the national security, or would otherwise be contrary to the national interest.

(2) The President shall exclude from the application of any proclamation under subsection (a) any article which is the subject of any proclamation under section 22 of the Agricultural Adjustment Act.

(c) The President may, to the extent that such action is consistent with the purposes of this section and the limitations contained in this section, proclaim the modification or termination, in whole or in part, of any proclamation issued under subsection (a).

(d) The President shall promptly notify each House of Congress of any action taken under this section and the reasons therefor.

(e) The effective period for any proclamation issued under this section with respect to any article shall not exceed 150 days (unless a longer period is authorized by Act of Congress); nor shall any article which has been the subject of any proclamation issued under this section be the subject of another proclamation issued under this section

until 1 year has expired after the termination of the effective period of such prior proclamation.

SEC. 124. COMPENSATION AUTHORITY.

(a) Whenever any action has been taken under section 203(b) to increase or impose any duty or other import restriction, the President—

(1) may enter into agreements with foreign countries for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

(2) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.

(b) No proclamation shall be made pursuant to subsection (a) decreasing any rate of duty to a rate which is more than 30 percent below the existing rate of duty.

(c) No agreement may be entered into under this section during any period in which agreements may be entered into under section 101.

SEC. 125. AUTHORITY TO RENEGOTIATE DUTIES.

(a) Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting

the foreign trade of the United States and that the purposes stated in section 2 will be promoted thereby, the President—

(1) may enter into trade agreements with foreign countries or instrumentalities thereof, and

(2) may proclaim such modification or continuance of any existing duty, such continuance of existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate to carry out any such trade agreement.

(b) Agreements entered into under this section in any 1-year period shall not provide for the reduction of duties, or the continuance of duty-free treatment, for articles which account for more than 2 percent of the value of United States imports for the most recent 12-month period for which import statistics are available.

(c) (1) No proclamation shall be made pursuant to subsection (a) decreasing any rate of duty to a rate which is more than 20 percent below the existing rate of duty.

(2) No proclamation shall be made pursuant to subsection (a) decreasing or increasing any rate of duty to a rate which is lower or higher than the corresponding rate which would have resulted if the maximum authority granted by section 101 with respect to such article had been exercised.

(d) Agreements may be entered into under this section only during the 2-year period which immediately follows the close of the period during which agreements may be entered into under section 101.

SEC. 126. TERMINATION AND WITHDRAWAL AUTHORITY.

(a) Every trade agreement entered into under this Act shall be subject to termination or withdrawal, upon due notice, at the end of a period specified in the agreement. Such period shall be not more than 3 years from the date on which the agreement becomes effective. If the agreement is not terminated or withdrawn from at the end of the period so specified, it shall be subject to termination or withdrawal thereafter upon not more than 6 months' notice.

(b) The President may at any time terminate, in whole or in part, any proclamation made under this Act.

(c) Whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to this Act, section 201 of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930, withdraws or suspends any obligation with respect to the trade of any foreign country or instrumentality thereof, the President is authorized, to the extent, at such times, and

for such periods as he deems necessary or appropriate, in order to exercise the rights or fulfill the obligations of the United States and consistently with the purposes stated in section 2 and the international obligations of the United States, in addition to exercising the authority contained in subsection (b), to proclaim an increase in any existing duty to a rate not more than 50 percent above the rate existing on July 1, 1934, or 20 percent ad valorem above the rate existing on July 1, 1973, whichever is higher, and to proclaim the withdrawal or suspension of the application, in whole or in part, of the agreement.

(d) Duties or other import restrictions required or appropriate to carry out any trade agreement entered into pursuant to this Act, section 201 of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930 shall not be affected by any termination, in whole or in part, of such agreement and shall remain in effect after the date of such termination for 1 year, unless the President by proclamation provides that such rates shall be restored to the level they would be but for the agreement. Within 60 days of any such termination, the President shall transmit to the Congress his recommendations as to the appropriate rates of duty for all articles which were affected by the termination or would have been so affected but for the preceding sentence.

(c) Before taking any action pursuant to subsection (b) or (c), the President shall provide for a public hearing during the course of which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

SEC. 127. NONDISCRIMINATORY TREATMENT.

Except as otherwise provided in this Act or in any other provision of law, any duty or other import restriction or duty-free treatment proclaimed in carrying out any trade agreement under this title shall apply to products of all foreign countries, whether imported directly or indirectly.

SEC. 128. RESERVATION OF ARTICLES FOR NATIONAL SECURITY OR OTHER REASONS.

(a) No proclamation shall be made pursuant to the provisions of this Act reducing or eliminating the duty or other import restriction on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b) While there is in effect with respect to any article any action taken under section 203 of this Act, or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. sec. 1862, 1981), the President shall reserve such article from negotiations under this title (and from any action under

section 122 (b) or 123) contemplating reduction or elimination of any duty or other import restriction. In addition, the President shall also so reserve any other article which he determines to be appropriate, taking into consideration information and advice available pursuant to and with respect to the matters covered by sections 131, 132, and 133 (b), where applicable.

(c) The President shall submit to the Congress an annual report on section 232 of the Trade Expansion Act of 1962. Within 60 days after he takes any action under such section 232, the President shall report to the Congress the action taken and the reasons therefor.

CHAPTER 3—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

SEC. 131. TARIFF COMMISSION ADVICE.

(a) In connection with any proposed trade agreement under chapter 1 or section 124 or 125, the President shall from time to time publish and furnish the Tariff Commission with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this title pursuant to which such consideration may be given.

(b) Within 6 months after receipt of such a list, the Tariff Commission shall advise the President with respect to each article of its judgment as to the probable economic effect of modifications of duties on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States manufacturing, agriculture, mining, fishing, labor, and consumers. Such advice may include in the case of any article the advice of the Tariff Commission as to whether any reduction in the rate of duty should take place over a longer period than the minimum periods provided by section 103 (a).

(c) In addition, in order to assist the President in his determination of whether to enter into any agreement under section 102, the Tariff Commission shall make such investigations and reports as may be requested by the President, including, where feasible, advice as to the probable economic effects of modifications of any barrier to (or other distortion of) international trade on domestic industries and purchasers and on prices and quantities of articles in the United States.

(d) In preparing its advice to the President under this section, the Tariff Commission shall, to the extent practicable—

(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles in question and the domestic industries producing the like or directly competitive articles;

(2) analyze the production, trade, and consumption of each like or directly competitive article, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned which it believes such modifications would cause; and

(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor, and consumers, utilizing to the fullest extent practicable United States Government

facilities abroad and appropriate personnel of the United States.

(e) In preparing its advice to the President under this section, the Tariff Commission shall, after reasonable notice, hold public hearings.

SEC. 132. ADVICE FROM DEPARTMENTS AND OTHER SOURCES.

Before any trade agreement is entered into under chapter 1 or section 124 or 125, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, and the Treasury, from the Special Representative for Trade Negotiations, and from such other sources as he may deem appropriate.

SEC. 133. PUBLIC HEARINGS.

(a) In connection with any proposed trade agreement under chapter 1 or section 124 or 125, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published pursuant to section 131, any article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after

reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings.

(b) The organization holding such hearings shall furnish the President with a summary thereof.

SEC. 134. PREREQUISITES FOR OFFERS.

In any negotiations seeking an agreement under chapter 1 or section 124 or 125, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make such an offer only after he has received advice concerning such article from the Tariff Commission under section 131 (b), or after the expiration of the relevant 6-month period provided for in that section, whichever first occurs.

SEC. 135. ADVICE FROM PRIVATE SECTOR.

(a) The President, in accordance with the provisions of this section, shall seek information and advice from representative elements of the private sector with respect to negotiating objectives and bargaining positions before entering into a trade agreement referred to in section 101 or 102.

(b) (1) The President shall establish an Advisory Com-

mittee for Trade Negotiations to provide overall policy advice on any trade agreement referred to in section 101 or 102. The Committee shall be composed of not more than 45 individuals, and shall include representatives of government, labor, industry, agriculture, consumer interests, and the general public.

(2) The Committee shall meet at the call of the Special Representative for Trade Negotiations, who shall be the Chairman. The Committee shall terminate at the expiration of 5 years from the date of the enactment of this Act. Members of the Committee shall be appointed by the President for a period of 2 years and may be reappointed for one or more additional periods.

(3) The Special Representative for Trade Negotiations shall make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

(c) In addition to the Committee established under subsection (b), the President shall, on his own initiative or at the request of organizations in a particular product sector, establish such industry, labor, or agricultural advisory committees as he determines to be necessary for any trade negotiations referred to in section 101 or 102. Such committees shall, so far as practicable, be representative of all industry, labor, or agricultural interests in the sector concerned. In

organizing such committees the President, acting through the Special Representative for Trade Negotiations and the Secretary of Commerce, Labor, or Agriculture, as appropriate, (1) shall consult with interested private organizations, and (2) shall take into account such factors as patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade, the character of the nontariff barriers and other distortions affecting such competition, the necessity for reasonable limits on the number of such product sector advisory committees, the necessity that each committee be reasonably limited in size, and that the product lines covered by each committee be reasonably related.

(d) Committees established pursuant to subsection (c) shall meet at the call of the Special Representative for Trade Negotiations, before and during any trade negotiations, to provide the following:

(1) policy advice on negotiations;

(2) technical advice and information on negotiations on particular products both domestic and foreign; and

(3) advice on other factors relevant to positions of the United States in trade negotiations.

(e) The provisions of the Federal Advisory Committee Act (Public Law 92-463) shall apply—

(1) to the Advisory Committee for Trade Negotiations established pursuant to subsection (b); and

(2) to all other advisory committees which may be established pursuant to subsection (c); except that the meetings of advisory groups established under subsection (c) shall be exempt from the requirements of subsections (a) and (b) of section 10 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions on the negotiation of any trade agreement.

(f) Information received in confidence by the Advisory Committee for Trade Negotiations or by any advisory committee established under subsection (c) shall not be disclosed to any person other than to officers or employees of the United States designated by the Special Representative for Trade Negotiations, by the Committee on Ways and Means of the House of Representatives, or by the Committee on Finance of the Senate to receive such information for use in connection with negotiation of a trade agreement referred to in section 101 or 102.

(g) The Special Representative for Trade Negotiations, and the Secretary of Commerce, Labor, or Agriculture, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established pursuant to subsection (c) as such committees may reasonably require to carry out their activities.

(h) It shall be the responsibility of the Special Representative for Trade Negotiations, in conjunction with the Secretary of Commerce, Labor, or Agriculture, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established pursuant to subsection (c) on a continuing and timely basis, both during preparation for negotiations and actual negotiations. Such consultation shall include the provision of information to each advisory committee as to (1) significant issues and developments arising in preparation for or in the course of such negotiations, and (2) overall negotiating objectives and positions of the United States and other parties to the negotiations. The Special Representative for Trade Negotiations shall not be bound by the advice or recommendations of such advisory committees but the Special Representative for Trade Negotiations shall inform the advisory committees of failures to accept such advice or recommendations, and the President shall include in his statement to the Con-

gress, required by section 163, a report by the Special Representative for Trade Negotiations on consultation with such committees, issues involved in such consultation, and the reasons for not accepting advice or recommendations.

(i) In addition to any advisory committee established pursuant to this section, the President shall provide adequate, timely, and continuing opportunity for the submission on an informal basis by private organizations or groups, representing labor, industry, agriculture, consumer interests, and others, of statistics, data, and other trade information, as well as policy recommendations, pertinent to the negotiation of any trade agreement referred to in section 101 or 102.

(j) Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any trade agreement referred to in section 101 or 102.

CHAPTER 4—OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

SEC. 141. OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS.

(a) There is established the Office of the Special Representative for Trade Negotiations (hereinafter in this section referred to as the "Office").

(b) (1) The Office shall be headed by the Special Rep-

resentative for Trade Negotiations who shall be appointed by the President, by and with the advice and consent of the Senate. The Special Representative for Trade Negotiations shall hold office at the pleasure of the President, shall be entitled to receive the same compensation and allowances as a chief of mission, and shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(2) There shall be in the Office two Deputy Special Representatives for Trade Negotiations who shall be appointed by the President, by and with the advice and consent of the Senate. Each Deputy Special Representative for Trade Negotiations shall hold office at the pleasure of the President and shall have the rank of Ambassador.

(c) (1) The Special Representative for Trade Negotiations shall—

(A) be the chief representative of the United States for each trade negotiation under this title or section 301;

(B) be responsible to the President and to Congress for the administration of trade agreements programs under this Act and the Trade Expansion Act of 1962;

(C) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

(D) be responsible for making reports to Congress

with respect to the matter set forth in subparagraphs (A) and (B);

(E) be chairman of the interagency trade organization established pursuant to section 242 (a) of the Trade Expansion Act of 1962; and

(F) be responsible for such other functions as the President may direct.

(2) Each Deputy Special Representative for Trade Negotiation shall have as his principal function the conduct of trade negotiations under this Act and shall have such other functions as the Special Representative for Trade Negotiations may direct.

(d) The Special Representative for Trade Negotiations may, for the purpose of carrying out his functions under this section—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS-18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their

homes or regular place of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) promulgate such rules and regulations as may be necessary to carry out the functions vested in him;

(4) utilize, with their consent, the services, personnel, and facilities of other Federal agencies;

(5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the Special Representative for Trade Negotiations may deem appropriate, with any agency or instrumentality of the United States, or with any public or private person, firm, association, corporation, or institution;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code; and

(7) adopt an official seal, which shall be judicially noticed.

(c) The Special Representative for Trade Negotiations shall, to the extent he deems it necessary for the proper administration and execution of the trade agreements programs of the United States, draw upon the resources of,

and consult with, Federal agencies in connection with the performance of his functions.

(f) (1) Any individual who holds the position of Special Representative for Trade Negotiations or a position as Deputy Special Representative for Trade Negotiations on the day before the date of enactment of this Act and who has been confirmed by and with the advice and consent of the Senate may continue to hold such position without regard to the first sentence of paragraph (1), or the first sentence of paragraph (2) of subsection (b), as the case may be.

(2) All personnel who on the day before the date of the enactment of this Act are employed by the Office of the Special Representative for Trade Negotiations established by Executive Order No. 11075 of January 15, 1963, as amended, are hereby transferred to the Office.

CHAPTER 5—CONGRESSIONAL DISAPPROVAL PROCEDURES WITH RESPECT TO PRESIDENTIAL ACTIONS

SEC. 151. RESOLUTIONS DISAPPROVING THE ENTERING INTO FORCE OF TRADE AGREEMENTS ON DISTORTIONS OF TRADE OR DISAPPROVING CERTAIN OTHER ACTIONS.

(a) RULES OF HOUSE OF REPRESENTATIVES AND SENATE ON SUCH RESOLUTIONS.—This chapter is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in subsection (b); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) TERMS OF RESOLUTION.—

(1) For purposes of this section, the term "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ———— does not favor ———— transmitted to Congress by the President on ————", the first blank space therein being filled with the name of the resolving House, the third blank space therein being appropriately filled with the day and year, and the second blank space therein being filled in accordance with paragraph (2).

(2) The second blank space referred to in paragraph (1) shall be filled as follows:

(A) in the case of a resolution relating to the entering into force of a trade agreement under section 102 (f), with the phrase "the entering into force of the trade agreement";

(B) in the case of a resolution referred to in section 204 (b), with the phrase "the taking effect or the continuation in effect of the proposed action under paragraph (3) or (4) of section 203 (b) of the Trade Reform Act of 1973";

(C) in the case of a resolution referred to in section 302 (b), with the phrase "the taking effect or the continuation in effect of action under section 301 of the Trade Reform Act of 1973"; and

(D) in the case of a resolution referred to in section 406 (c), with the phrase "the entering into force or the continuing in effect of nondiscriminatory treatment with respect to the products of ———" (with this blank space being filled by the name of the appropriate country).

(c) REFERENCE OF RESOLUTION TO COMMITTEE.—A resolution disapproving the entering into force of a trade agreement under section 102 (f) shall be referred to the committee or committees of each House which would have jurisdiction over proposed legislation relating to matters covered by the proclamation and orders submitted with such agreement. A resolution referred to in section 204 (b), 302 (b),

or 406(c) shall be referred to the Committee on Ways and Means of the House of Representatives or to the Committee on Finance of the Senate, as the case may be.

(d) DISCHARGE OF COMMITTEE CONSIDERING RESOLUTION.—

(1) If the committee to which a resolution has been referred has not reported it at the end of 7 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the agreement which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same matter), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may

another motion to discharge the committee be made with respect to any other resolution with respect to the same matter.

(e) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEE; DEBATE.—

(1) When the committee has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(f) DECISIONS WITHOUT DEBATE ON MOTION TO POSTPONE OR PROCEED.—

(1) Motions to postpone, made with respect to the discharge from committee or the consideration of a

resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(2) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution shall be decided without debate.

SEC. 152. SPECIAL RULES RELATING TO CONGRESSIONAL DISAPPROVAL PROCEDURES.

(a) Whenever, pursuant to section 102(f), 204(b), 302(b), or 406(a) and (b), a document is required to be transmitted to the Congress, copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(b) For purposes of sections 102(f)(3), 204(b), 302(b), and 406(c), the 90-day period referred to in such sections shall be computed by excluding—

(1) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House is not in session.

CHAPTER 6—CONGRESSIONAL LIAISON AND REPORTS

SEC. 161. CONGRESSIONAL DELEGATES TO NEGOTIATIONS.

At the beginning of each regular session of the Congress, the President shall, upon the recommendation of the Speaker of the House of Representatives, select five members (not more than three of whom shall be of the same political party) of the Committee on Ways and Means, and shall, upon the recommendation of the President of the Senate, select five members (not more than three of whom shall be of the same political party) of the Committee on Finance, who shall be accredited as official advisers to the United States delegation to international conferences, meetings, and negotiation sessions with respect to trade agreements. Any individual so selected may be reselected under this section.

SEC. 162. TRANSMISSION OF AGREEMENTS TO CONGRESS.

(a) As soon as practicable after a trade agreement entered into under chapter 1 or section 124 or 125 has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the Tariff Commission under section 131(b), if any, and of other relevant considerations, of his reasons for entering into the agreement.

(b) The President shall transmit to each Member of

the Congress a summary of the information required to be transmitted to each House under subsection (a). For purposes of this subsection, the term "Member" includes any Delegate or Resident Commissioner.

SEC. 163. REPORTS.

(a) The President shall submit to the Congress an annual report on the trade agreements program and on import relief and adjustment assistance for workers and firms under this Act. Such report shall include information regarding new negotiations; changes made in duties and nontariff barriers and other distortions of trade of the United States; reciprocal concessions obtained; changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor); extension or withdrawal of nondiscriminatory treatment by the United States with respect to the products of a foreign country; extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries; the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment; and the measures being taken to seek the removal of other significant foreign import restrictions; and other information relating to the trade agreements program

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and to the agreements entered into thereunder.

(b) The Tariff Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.

TITLE II—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

CHAPTER 1—IMPORT RELIEF

SEC. 201. INVESTIGATION BY TARIFF COMMISSION.

(a) (1) A petition for eligibility for import relief for the purpose of facilitating orderly adjustment to import competition may be filed with the Tariff Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. The petition shall include a statement describing the specific purposes for which import relief is being sought, which may include such objectives as facilitating the orderly transfer of resources to alternative uses and other means of adjustment to new conditions of competition.

(2) Whenever a petition is filed under this subsection, the Tariff Commission shall transmit a copy thereof to the Special Representative for Trade Negotiations and the agencies directly concerned.

(b) (1) Upon the request of the President or the Special Representative for Trade Negotiations, upon resolution of either the Committee on Ways and Means of the House of

Representatives or the Committee on Finance of the Senate, upon its own motion, or upon the filing of a petition under subsection (a) (1), the Tariff Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

(2) In making its determinations under paragraph (1), the Tariff Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

(A) with respect to serious injury, the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry;

(B) with respect to threat of serious injury, a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned; and

(C) with respect to substantial cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

(3) For purposes of paragraph (1), in determining the domestic industry producing an article like or directly competitive with an imported article, the Tariff Commission—

(A) may, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production, and

(B) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article.

(4) For purposes of this section, the term "substantial cause" means a cause which is important and not less than any other cause.

(5) In the course of any proceeding under this subsection, the Tariff Commission shall, for the purpose of assisting the President in making his determinations under sections 202 and 203, investigate and report on efforts made by firms and workers in the industry to compete more effectively with imports.

(6) In the course of any proceeding under this subsection, the Tariff Commission shall investigate any factors which in its judgment may be contributing to increased imports of the article under investigation; and, whenever in the course of its investigation the Tariff Commission

has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of the Antidumping Act, 1921, section 303 or 337 of the Tariff Act of 1930, or other remedial provisions of law, the Tariff Commission shall promptly notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law.

(c) In the course of any proceeding under subsection (b), the Tariff Commission shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings.

(d) (1) The Tariff Commission shall report to the President its findings under subsection (b) and the basis therefor and shall include in each report any dissenting or separate views. If the Tariff Commission finds with respect to any article, as a result of its investigation, the serious injury or threat thereof described in subsection (b), it shall find the amount of the increase in, or imposition of, any duty or other import restriction on such article which is necessary to prevent or remedy such injury and shall include such finding in its report to the President. The Tariff Commission shall furnish to the President a transcript of the hearings and any briefs which may have been submitted in connection with each investigation.

(2) The report of the Tariff Commission of its determination under subsection (b) shall be made at the earliest practicable time, but not later than 6 months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be). Upon making such report to the President, the Tariff Commission shall also promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(c) Except for good cause determined by the Tariff Commission to exist, no investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this section, unless 1 year has elapsed since the Tariff Commission made its report to the President of the results of such previous investigation.

(f) (1) Any investigation by the Tariff Commission under section 301 (b) of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) which is in progress immediately before such date of enactment shall be continued under this section in the same manner as if the investigation had been instituted originally under the provisions of this section. For purposes of subsection (d) (2), the petition for any investigation to

which the preceding sentence applies shall be treated as having been filed, or the request or resolution as having been received or the motion having been adopted, as the case may be, on the date of the enactment of this Act.

(2) If, on the date of the enactment of this Act, the President has not taken any action with respect to any report of the Tariff Commission containing an affirmative determination resulting from an investigation under section 301(b) of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act), such report shall be treated by the President as a report received by him under this section on the date of the enactment of this Act.

SEC. 202. PRESIDENTIAL ACTION AFTER INVESTIGATIONS.

(a) After receiving a report from the Tariff Commission containing an affirmative finding under section 201(b) that increased imports have been a substantial cause of serious injury or threat thereof with respect to an industry—

(1) the President shall evaluate the extent to which adjustment assistance has been made available (or can be made available) under chapters 2 and 3 to the workers and firms in such industry, and, after such evaluation, may direct the Secretary of Labor and the Secretary of Commerce that expeditious consideration be given to petitions for adjustment assistance; and

(2) the President may provide import relief for such industry pursuant to section 203.

(b) Within 60 days (30 days in the case of a supplemental report under subsection (d)) after receiving a report from the Tariff Commission containing an affirmative finding under section 201(b) (or a finding under section 201(b) which he may treat as an affirmative finding by reason of section 330(d) of the Tariff Act of 1930), the President shall make his determination whether to provide import relief pursuant to section 203. If the President determines not to provide import relief, he shall immediately submit a report to the House of Representatives and to the Senate stating the considerations on which his decision was based.

(c) In determining whether to provide import relief pursuant to section 203, the President shall take into account, in addition to such other considerations as he may deem relevant—

(1) information and advice from the Secretary of Labor on the extent to which workers in the industry have applied for, are receiving, or are likely to receive adjustment assistance under chapter 2 or benefits from other manpower programs;

(2) information and advice from the Secretary of Commerce on the extent to which firms in the industry

have applied for, are receiving, or are likely to receive adjustment assistance under chapter 3;

(3) the probable effectiveness of import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relative to the position of the industry in the Nation's economy;

(4) the effect of import relief on consumers (including the price and availability of the imported article and the like or directly competitive article produced in the United States) and on competition in the domestic markets for such articles;

(5) the effect of import relief on the international economic interests of the United States;

(6) the impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(7) the geographic concentration of imported products marketed in the United States;

(8) the extent to which the United States market is the focal point for exports of such article by reason

of restraints on exports of such article to, or on imports of such article into, third country markets; and

(9) the economic and social costs which would be incurred by taxpayers, communities, and workers, if import relief were or were not provided.

(d) The President may, within 45 days after the date on which he receives an affirmative finding of the Tariff Commission under section 201 (b) with respect to an industry, request additional information from the Tariff Commission. The Tariff Commission shall, as soon as practicable but in no event more than 30 days (60 days where extensive additional information is requested) after the date on which it receives the President's request, furnish additional information with respect to such industry in a supplemental report.

SEC. 203. IMPORT RELIEF.

(a) For purposes of applying the provisions of this section, each of the following methods of providing relief from injury caused by imports shall be preferred to the methods listed below it:

(1) Increases in, or impositions of, duties.

(2) Tariff-rate quotas.

(3) Quantitative restrictions.

(4) Orderly marketing agreements.

Nothing in this section shall prevent the use of a combination of two or more such methods.

(b) If the President determines to provide import relief pursuant to this section, he shall, to the extent that and for such time (not to exceed 5 years) as he determines necessary to prevent or remedy serious injury or the threat thereof to the industry in question and to facilitate the orderly adjustment to new competitive conditions by the industry in question—

(1) proclaim an increase in, or imposition of, any duty on the article causing or threatening to cause serious injury to such industry;

(2) proclaim a tariff-rate quota on such article;

(3) proclaim a modification of, or imposition of, any quantitative restriction on the import into the United States of such article;

(4) negotiate orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such articles; or

(5) take any combination of such actions.

(c) Whenever the President selects under this section a method or methods of providing relief from injury caused by imports, he shall report to the Congress what action he is

taking, and he shall state with respect to each such method the reasons why he selected that method of providing relief from such injury rather than adjustment assistance and rather than each method of import relief which ranks higher in preference.

(d) (1) No proclamation pursuant to subsection (b) shall be made increasing a rate of duty to (or imposing) a rate which is more than 50 percent ad valorem above the rate (if any) existing at the time of the proclamation.

(2) Any quantitative restriction proclaimed pursuant to subsection (b) and any orderly marketing agreement negotiated pursuant to such subsection shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period which the President determines is representative of imports of such article.

(e) (1) Any initial proclamation made pursuant to paragraph (1), (2), or (3) of subsection (b) shall be made within 15 days after the import relief determination date. Any initial orderly marketing agreement under paragraph (4) of subsection (b) shall be entered into within 180 days after the import relief determination date.

(2) If, within 15 days after the import relief determination date, the President announces his intention to

negotiate one or more orderly marketing agreements, the taking effect of any initial proclamation referred to in paragraph (1) may be withheld until the entering into effect of an orderly marketing agreement which is entered into on or before the 180th day after the import relief determination date, and the application of any such initial proclamation may be suspended while such agreement is in effect.

(3) For purposes of this subsection, the term "import relief determination date" means the date of the President's determination under section 202 to provide import relief.

(f) (1) For purposes of subsections (a) and (b), the suspension of item 806.30 or 807.00 of the Tariff Schedules of the United States with respect to an article shall be treated as an increase in duty.

(2) For purposes of subsections (a) and (b), the suspension of the designation of any article as an eligible article for purposes of title V shall be treated as an increase in duty.

(3) No proclamation providing for a suspension referred to in paragraph (1) or (2) with respect to any article shall be made under subsection (b) unless the Tariff Commission, in addition to making an affirmative determination with respect to such article under section 201 (b), determines in the course of its investigation under section 201 (b) that the serious injury (or threat thereof) to the domestic industry producing a like or directly competitive article results from

the application of item 806.30 or item 807.00, or from the designation of the article as an eligible article for purposes of title V, as the case may be.

(g) No import relief shall be provided pursuant to this section unless due diligence has been exercised in notifying those persons who may be adversely affected by the providing of such relief, and unless the President has provided for a public hearing with respect to the proposal to provide such relief during the course of which interested persons have been given a reasonable opportunity to be present, to produce evidence, and to be heard.

(h) (1) The President shall by regulations provide for the efficient and fair administration of any quantitative restriction proclaimed pursuant to subsection (b) (3).

(2) In order to carry out an agreement concluded under subsection (b) (4), the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out one or more agreements concluded under subsection (b) (4) among countries accounting for a major part of United States imports of the article covered by such agreements, the President is also authorized to issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to such agreements.

(3) Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

(i) (1) Any import relief provided pursuant to this section shall, unless renewed pursuant to paragraph (3), terminate no later than the close of the day which is 5 years after the day on which import relief with respect to the article in question first took effect pursuant to this section.

(2) To the extent feasible, any import relief provided pursuant to this section for a period of more than 3 years shall be phased down during the period of such relief, with the first reduction of relief taking effect no later than the close of the day which is 3 years after the day on which such relief first took effect.

(3) Any import relief provided pursuant to this section may be extended by the President, at a level of relief no greater than the level in effect immediately before such extension, for one 2-year period if the President determines, after taking into account the advice received from the Tariff Commission under subsection (j) (2) and after taking into account the considerations described in section 202 (c), that such extension is in the national interest.

(4) Any import relief provided pursuant to this sec-

tion may be reduced or terminated by the President when he determines, after taking into account the advice received from the Tariff Commission under subsection (j) (2) and after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such reduction or termination is in the national interest.

(5) For purposes of this subsection and subsection (j), the import relief provided in the case of an orderly marketing agreement shall be the level of relief contemplated by such agreement.

(j) (1) So long as any import relief provided pursuant to this section remains in effect, the Tariff Commission shall keep under review developments with respect to the industry concerned (including the progress and specific efforts made by the firms in the industry concerned to adjust to import competition) and upon request of the President shall make reports to the President concerning such developments.

(2) Upon request of the President or upon its own motion, the Tariff Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of the reduction or termination of the import relief provided pursuant to this section.

(3) Upon petition on behalf of the industry concerned, filed with the Tariff Commission not earlier than the date

which is 9 months, and not later than the date which is 6 months, before the date any import relief provided pursuant to this section is to terminate by reason of the expiration of the initial period therefor, the Tariff Commission shall advise the President of its judgment as to the probable economic effect on such industry of such termination.

(4) In advising the President under paragraph (2) or (3) as to the probable economic effect on the industry concerned, the Tariff Commission shall take into account all economic factors which it considers relevant, including the considerations set forth in section 202 (c) and the progress and specific efforts made by the industry concerned to adjust to import competition.

(5) Advice by the Tariff Commission under paragraph (2) or (3) shall be given on the basis of an investigation during the course of which the Tariff Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

(k) No investigation for the purposes of section 201 shall be made with respect to an article which has received import relief under this section unless 2 years have elapsed since the last day on which import relief was provided with respect to such article pursuant to this section.

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SEC. 204. PROCEDURE FOR CONGRESSIONAL DISAPPROVAL OF QUANTITATIVE RESTRICTIONS AND ORDERLY MARKETING AGREEMENTS.

(a) Whenever the President issues a proclamation pursuant to section 203 (b) (3) or enters into an orderly marketing agreement pursuant to section 203 (b) (4), he shall promptly transmit to the House of Representatives and to the Senate a copy of such proclamation or agreement together with a copy of the statement required to be made to Congress under section 203 (c).

(b) If, before the close of the 90-day period beginning on the day on which the copy of the proclamation or agreement is delivered to the House of Representatives and to the Senate pursuant to subsection (a), either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval under the procedures set forth in section 151, then such proclamation or such agreement, as the case may be, shall have no force and effect beginning with the day after the date of the adoption of such resolution of disapproval.

(c) For purposes of section 203 (e) (1), in the case of the adoption of any resolution of disapproval referred to in subsection (b), a second 15-day period during which the President shall provide import relief under paragraph (1)

or (2) of section 203(b) shall be deemed to have started on the day on which the resolution of disapproval was adopted.

CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

Subchapter A—Petitions and Determinations

SEC. 221. PETITIONS.

(a) A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary of Labor (hereinafter in this chapter referred to as the "Secretary") by a group of workers or by their certified or recognized union or other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

(b) If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

The Secretary shall certify a group of workers as eligible

to apply for adjustment assistance under this chapter if he determines—

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

SEC. 223. DETERMINATIONS BY SECRETARY OF LABOR.

(a) As soon as possible after the date on which a petition is filed under section 221, but in any event not later than 60 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 222 and shall issue a certification of eligibility to apply for assistance under this chapter covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

(b) A certification under this section shall not apply

to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm before his application under section 231 occurred—

(1) more than one year before the date of the petition on which such certification was granted, or

(2) more than 6 months before the effective date of this chapter.

(c) Upon reaching his determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register.

(d) Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm or subdivision of the firm, that total or partial separations from such firm or subdivision are no longer attributable to the conditions specified in section 222, he shall terminate such certification and promptly have notice of such termination published in the Federal Register. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

SEC. 224. STUDY BY SECRETARY OF LABOR WHEN TARIFF COMMISSION BEGINS INVESTIGATION; ACTION WHERE THERE IS AFFIRMATIVE FINDING.

(a) Whenever the Tariff Commission begins an investigation under section 201 with respect to an industry, the Tariff Commission shall immediately notify the Secretary of

such investigation, and the Secretary shall immediately begin a study of—

(1) the number of workers in the domestic industry producing the like or directly competitive article which have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the adjustment of such workers to the import competition may be facilitated through the use of existing programs.

(b) The report of the Secretary of the study under subsection (a) shall be made to the President not later than 15 days after the day on which the Tariff Commission makes its report under section 201. Upon making its report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

(c) Whenever the Tariff Commission makes an affirmative finding under section 201 (b) that increased imports are a substantial cause of serious injury or threat thereof with respect to an industry, the Secretary shall make available, to the extent feasible, full information to the workers in such industry about programs which may facilitate the adjustment to import competition of such workers, and he shall provide assistance in the preparation and

processing of petitions and applications of such workers for program benefits.

Subchapter B—Program Benefits

PART I—TRADE READJUSTMENT ALLOWANCES

SEC. 231. QUALIFYING REQUIREMENTS FOR WORKERS.

Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A who files an application for such allowance for any week of unemployment which begins after the date specified in such certification pursuant to section 223 (a), if the following conditions are met:

(1) Such worker's last total or partial separation before his application under this chapter, occurred—

(A) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment, and

(B) before the expiration of the 2-year period beginning on the date on which the determination under section 223 was made, and

(C) before the termination date (if any) determined pursuant to section 223 (d); and

(2) Such worker had, in the 52 weeks immediately preceding such total or partial separation, at least 26 weeks of employment at wages of $30 or more a week

in adversely affected employment with a single firm or subdivision of a firm, or, if data with respect to weeks of employment are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary.

SEC. 232. WEEKLY AMOUNTS.

(a) Subject to the other provisions of this section, the trade readjustment allowance payable to an adversely affected worker for a week of unemployment shall be—

(1) (A) in the case of any such week in the first 26 weeks of such allowances, 70 percent of his average weekly wage (but not in excess of the average weekly manufacturing wage), or

(B) in the case of any subsequent week of such allowances, 65 percent of his average weekly wage (but not in excess of the average weekly manufacturing wage); reduced by

(2) 50 percent of the amount of the remuneration for services performed during such week.

(b) Any adversely affected worker who is entitled to trade readjustment allowances and who is undergoing training approved by the Secretary, including on-the-job training, shall receive for each week in which he is undergoing any such training, a trade readjustment allowance in an amount (computed for such week) equal to the amount computed

under subsection (a) or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such trade readjustment allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

(c) The amount of trade readjustment allowance payable to an adversely affected worker under subsection (a) for any week shall be reduced by any amount of unemployment insurance which he has received or is seeking with respect to such week; but, if the appropriate State or Federal agency finally determines that the worker was not entitled to unemployment insurance with respect to such week, the reduction shall not apply with respect to such week.

(d) If unemployment insurance, or a training allowance under any Federal law, is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to subsection (c) or (e) or to any disqualification under section 236(c)) to a trade readjustment allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of trade readjustment allowance otherwise payable to him under section

233(a) when he applies for a trade readjustment allowance and is determined to be entitled to such allowance. If the unemployment insurance or the training allowance paid to such worker for any week of unemployment is less than the amount of the trade readjustment allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a trade readjustment allowance and is determined to be entitled to such allowance, a trade readjustment allowance for such week equal to such difference.

(e) Whenever, with respect to any week of unemployment, the total amount payable to an adversely affected worker as remuneration for services performed during such week, as unemployment insurance, as a training allowance referred to in subsection (d), and as a trade readjustment allowance would exceed—

(1) in the case of any such week in the first 26 weeks of such allowances, 80 percent of his average weekly wage (or, if lesser, 130 percent of the average weekly manufacturing wage), or

(2) in the case of any subsequent week of such allowances, 75 percent of his average weekly wage (or, if lesser, 130 percent of the average weekly manufacturing wage),

then his trade readjustment allowance for such week shall be reduced by the amount of such excess.

(f) The amount of any weekly payment to be made under this section which is not a whole dollar amount shall be rounded upward to the next higher whole dollar amount.

(g) (1) If unemployment insurance is paid under a State law to an adversely affected worker for a week for which—

(A) he receives a trade readjustment allowance, or

(B) he makes application for a trade readjustment allowance and would be entitled (determined without regard to subsection (c) or (e)) to receive such allowance,

the State agency making such payment shall, unless it has been reimbursed for such payment under Federal law, be reimbursed from funds the authorization contained in pursuant to section 245(b), to the extent such payment does not exceed the amount of the trade readjustment allowance which such worker would have received, or would have been entitled to receive, as the case may be, if he had not received the State payment. The amount of such reimbursement shall be determined by the Secretary on the basis of reports furnished to him by the State agency.

(2) In any case in which a State agency is reimbursed under paragraph (1) for payments of unemployment insurance made to an adversely affected worker, such payments, and the period of unemployment of such worker for which such payments were made, may be disregarded under the State law (and for purposes of applying section 3303 of the Internal Revenue Code of 1954) in determining whether or not an employer is entitled to a reduced rate of contributions permitted by the State law.

SEC. 233. TIME LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a) Payment of trade readjustment allowances shall not be made to an adversely affected worker for more than 52 weeks, except that, in accordance with regulations prescribed by the Secretary—

(1) such payments may be made for not more than 26 additional weeks to an adversely affected worker to assist him to complete training approved by the Secretary, or

(2) such payments shall be made for not more than 13 additional weeks to an adversely affected worker who had reached his 60th birthday on or before the date of total or partial separation.

(b) Except for a payment made for an additional week specified in subsection (a), a trade readjustment allowance

shall not be paid for a week of unemployment beginning more than 2 years after the beginning of the appropriate week. A trade readjustment allowance shall not be paid for any additional week specified in subsection (a) if such week begins more than 3 years after the beginning of the appropriate week. The appropriate week for a totally separated worker is the week of his most recent total separation. The appropriate week for a partially separated worker is the week in respect of which he first receives a trade readjustment allowance following his most recent partial separation.

SEC. 234. APPLICATION OF STATE LAWS.

Except where inconsistent with the provisions of this chapter and subject to such regulations as the Secretary may prescribe, the availability and disqualification provisions of the State law—

(1) under which an adversely affected worker is entitled to unemployment insurance (whether or not he has filed a claim for such insurance), or

(2) if he is not so entitled to unemployment insurance, of the State in which he was totally or partially separated,

shall apply to any such worker who files a claim for trade readjustment allowances. The State law so determined with respect to a separation of a worker shall remain applicable,

for purposes of the preceding sentence, with respect to such separation until such worker becomes entitled to unemployment insurance under another State law (whether or not he has filed a claim for such insurance).

PART II—TRAINING AND RELATED SERVICES

SEC. 235. EMPLOYMENT SERVICES.

The Secretary shall make every reasonable effort to secure for adversely affected workers covered by a certification under subchapter A of this chapter counseling, testing, and placement services, and supportive and other services, provided for under any other Federal law. The Secretary shall, whenever appropriate, procure such services through agreements with cooperating State agencies.

SEC. 236. TRAINING.

(a) If the Secretary determines that there is no suitable employment available for an adversely affected worker covered by a certification under subchapter A of this chapter, but that suitable employment (which may include technical and professional employment) would be available if the worker received appropriate training, he may approve such training. Insofar as possible, the Secretary shall provide or assure the provision of such training through manpower programs established by law.

(b) The Secretary may, where appropriate, authorize

supplemental assistance necessary to defray transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary shall not authorize payments for subsistence exceeding $5 per day; nor shall he authorize payments for transportation expenses exceeding 10 cents per mile.

(c) Any adversely affected worker who, without good cause, refuses to accept or continue, or fails to make satisfactory progress in, suitable training to which he has been referred by the Secretary shall not thereafter be entitled to payments under this chapter until he enters or resumes the training to which he has been so referred.

PART III—JOB SEARCH AND RELOCATION ALLOWANCES

SEC. 237. JOB SEARCH ALLOWANCES.

(a) Any adversely affected worker covered by a certification under subchapter A of this chapter who has been totally separated may file an application with the Secretary for a job search allowance. Such allowance, if granted, shall provide reimbursement to the worker of 80 percent of the cost of his necessary job search expenses as prescribed by regulations of the Secretary; except that such reimbursement may not exceed $500 for any worker.

(b) A job search allowance may be granted only—

(1) to assist an adversely affected worker in securing a job within the United States;

(2) where the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides; and

(3) where the worker has filed an application for such allowance with the Secretary no later than 1 year after the date of his last total separation before his application under this chapter.

SEC. 238. RELOCATION ALLOWANCES.

(a) Any adversely affected worker covered by a certification under subchapter A of this chapter who has been totally separated may file an application with the Secretary for a relocation allowance, subject to the terms and conditions of this section.

(b) A relocation allowance may be granted only to assist an adversely affected worker in relocating within the United States and only if the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides and that such worker—

(1) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which he wishes to relocate, or

(2) has obtained a bona fide offer of such employment.

(c) A relocation allowance shall not be granted to such worker unless—

(1) for the week in which the application for such allowance is filed, he is entitled to a trade readjustment allowance (determined without regard to section 232 (c) and (e)) or would be so entitled (determined without regard to whether he filed application therefor) but for the fact that he has obtained the employment referred to in subsection (b) (1), and

(2) such relocation occurs within a reasonable period after the filing of such application or (in the case of a worker who has been referred to training by the Secretary) within a reasonable period after the conclusion of such training.

Under regulations prescribed by the Secretary, a relocation allowance shall not be granted to more than one member of the family with respect to the same relocation.

(d) For the purposes of this section, the term "relocation allowance" means—

(1) 80 percent of the reasonable and necessary expenses, as specified in regulations prescribed by the Secretary, incurred in transporting a worker and his family, if any, and household effects, and

(2) a lump sum equivalent to three times the worker's average weekly wage, up to a maximum payment of $500.

Subchapter C—General Provisions

SEC. 239. AGREEMENTS WITH STATES.

(a) The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this subchapter as "cooperating States" and "cooperating State agencies" respectively). Under such an agreement, the cooperating State agency (1) as agent of the United States, will receive applications for, and will provide, payments on the basis provided in this chapter, (2) where appropriate, will afford adversely affected workers who apply for payments under this chapter testing, counseling, referral to training, and placement services, and (3) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this chapter.

(b) Each agreement under this subchapter shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

(c) Each agreement under this subchapter shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this chapter.

(d) A determination by a cooperating State agency with respect to entitlement to payments under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent.

SEC. 240. ADMINISTRATION ABSENT STATE AGREEMENT.

(a) In any State where there is no agreement in force between a State or its agency under section 239, the Secretary shall arrange under regulations prescribed by him for performance of all necessary functions under subchapter B of this chapter, including provision for a fair hearing for any worker whose application for payments is denied.

(b) A final determination under subsection (a) with respect to entitlement to payments under subchapter B of this chapter is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. sec. 405(g)).

SEC. 241. PAYMENTS TO STATES.

(a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State the sums necessary to enable such State as agent of the United States to make payments provided for by this chapter. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State from the Adjustment Assistance Trust

Fund established in section 245 in accordance with such certification. Sums reimbursable to a State pursuant to section 232(g) shall be credited to the account of such State in the Unemployment Trust Fund and shall be used only for the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

(b) All money paid a State under this section shall be used solely for the purposes for which it is paid; and money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this subchapter, to the Secretary of the Treasury and credited to to Adjustment Assistance Fund.

(c) Any agreement under this subchapter may require any officer or employee of the State certifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this chapter.

SEC. 242. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.

(a) No person designated by the Secretary, or designated pursuant to an agreement under this subchapter, as a

certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this chapter.

(b) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this chapter if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a).

SEC. 243. RECOVERY OF OVERPAYMENTS.

(a) If a cooperating State agency or the Secretary, or a court of competent jurisdiction finds that any person—

(1) has made or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or has knowingly failed or caused another to fail to disclose a material fact; and

(2) as a result of such action has received any payment under this chapter to which he was not entitled, such person shall be liable to repay such amount to the State agency or the Secretary as the case may be, or either may recover such amount by deductions from any sums payable to such person under this chapter. Any such finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing.

(b) Any amount repaid to a State agency under this section shall be deposited into the fund from which payment

was made. Any amount repaid to the Secretary under this section shall be returned to the Secretary of the Treasury and credited to the Adjustment Assistance Trust Fund.

SEC. 244. PENALTIES.

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter or pursuant to an agreement under section 239 shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

SEC. 245. CREATION OF TRUST FUND; AUTHORIZATION OF APPROPRIATIONS OUT OF CUSTOMS RECEIPTS.

(a) There is hereby established on the books of the Treasury of the United States a trust fund to be known as the "Adjustment Assistance Trust Fund" (referred to in this section as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in it pursuant to the authorization contained in subsection (b). Amounts in the Trust Fund may be used only to carry out the provisions of this chapter (including administrative costs). The Secretary of the Treasury shall be the trustee of the Trust Fund and shall report to the Congress not later than March 1 of each year on the operation and status of the Trust Fund during the preceding fiscal year.

(b) There is hereby authorized to be appropriated to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of customs duties not otherwise appropriated, for each fiscal year ending after the date of the enactment of this Act, such sums as may be necessary to carry out the provisions of this chapter (including administrative costs).

SEC. 246. TRANSITIONAL PROVISIONS.

(a) Where a group of workers has been certified as eligible to apply for adjustment assistance under section 302 (b) (2) or (c) of the Trade Expansion Act of 1962, any worker who has not had an application for trade readjustment allowances under section 322 of that Act approved or denied before the effective date of this chapter may apply under section 231 of this Act as if the group certification under which he claims coverage had been made under subchapter A of this chapter.

(b) In any case where a group of workers or their certified or recognized union or other duly authorized representative has filed a petition under section 301 (a) (2) of the Trade Expansion Act of 1962, more than 4 months before the effective date of this chapter and

(1) the Tariff Commission has not rejected such petition before the effective date of this chapter, and

(2) The President or his delegate has not issued a

certification under section 302(c) of that Act to the petitioning group before the effective date of this chapter,

such group or representative thereof may file a new petition under section 221 of this Act, not later than 90 days after the effective date of this chapter. For purposes of section 223(b)(1), the date on which such group or representative filed the petition under the Trade Expansion Act of 1962 shall apply. Section 223(b)(2) shall not apply to workers covered by a certification issued pursuant to a petition meeting the requirements of this subsection.

(c) A group of workers may file a petition under section 221 covering weeks of unemployment (as defined in the Trade Expansion Act of 1962) beginning before the effective date of this chapter, or covering such weeks and also weeks of unemployment beginning on or after the effective date of this chapter.

(d) Any worker receiving payments pursuant to this section shall be entitled—

(1) for weeks of unemployment (as defined in the Trade Expansion Act of 1962) beginning before the effective date of this chapter, to the rights and privileges provided in chapter 3 of title III of such Act, and

(2) for weeks of unemployment beginning on or

after the effective date of this chapter, to the rights and privileges provided in this chapter.

(e) The Tariff Commission shall make available to the Secretary on request data it has acquired in investigations under section 301 of the Trade Expansion Act of 1962 concluded within the 2-year period ending on the effective date of this chapter which did not result in Presidential action under section 302(a)(3) or 302(c) of that Act.

SEC. 247. DEFINITIONS.

For purposes of this chapter—

(1) The term "adversely affected employment" means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for adjustment assistance under this chapter.

(2) The term "adversely affected worker" means an individual who, because of lack of work in adversely affected employment—

(A) has been totally or partially separated from such employment, or

(B) has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

(3) The term "average weekly manufacturing wage" means the national gross average weekly earn-

ings of production workers in manufacturing industries for the latest calendar year (as officially published annually by the Bureau of Labor Statistics of the Department of Labor) most recently published before the period for which the assistance under this chapter is furnished.

(4) The term "average weekly wage" means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual's total wages were highest among the first 4 of the last 5 completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

(5) The term "average weekly hours" means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (4).

(6) The term "partial separation" means, with

respect to an individual who has not been totally separated, that he has had—

(A) his hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment, and

(B) his wages reduced to 80 percent or less (75 percent in the case of any week after the first 26 weeks in which he is eligible to receive a trade readjustment allowance) of his average weekly wage in such adversely affected employment.

(7) The term "remuneration" means wages and net earnings derived from services performed as a self-employed individual.

(8) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico; and the term "United States" when used in the geographical sense includes such Commonwealth.

(9) The term "State agency" means the agency of the State which administers the State law.

(10) The term "State law" means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(11) The term "total separation" means the layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

(12) The term "unemployment insurance" means the unemployment insurance payable to an individual under any State law or Federal unemployment insurance law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act.

(13) The term "week" means a week as defined in the applicable State law.

(14) The term "week of unemployment" means with respect to an individual any week for which his remuneration for services performed during such week is less than 80 percent (75 percent in the case of any week after the first 26 weeks in which he is eligible to receive a trade readjustment allowance) of his average weekly wage and in which, because of lack of work—

(A) if he has been totally separated, he worked less than the full-time week (excluding overtime) in his current occupation, or

(B) if he has been partially separated, he worked 80 percent or less of his average weekly hours.

SEC. 248. REGULATIONS.

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.

SEC. 249. EFFECTIVE DATE.

This chapter (other than section 250) shall become effective on the 90th day following the date of the enactment of this Act.

SEC. 250. COORDINATION.

There is hereby established the Adjustment Assistance Coordinating Committee to consist of a Deputy Special Trade Representative as Chairman, and the officials charged with adjustment assistance responsibilities of the Departments of Labor and Commerce and the Small Business Administration. It shall be the function of the Committee to coordinate the adjustment assistance policies and programs of the various agencies involved and to promote the efficient and effective delivery of adjustment assistance benefits.

CHAPTER 3—ADJUSTMENT ASSISTANCE FOR FIRMS

SEC. 251. PETITIONS AND DETERMINATIONS.

(a) A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary of Commerce (hereinafter in this chapter referred to as the "Secretary") by a firm or its representa-

tive. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

(b) If the petitioner, or any other person, organization, or group found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

(c) The Secretary shall certify a firm as eligible to apply for adjustment assistance under this chapter if he determines—

(1) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by such firm contributed importantly to such total or partial separation and to such decline in sales or production.

(d) A determination shall be made by the Secretary as soon as possible after the date on which the petition is filed

under this section, but in any event not later than 60 days after that date.

SEC. 252. APPROVAL OF ADJUSTMENT PROPOSALS.

(a) A firm certified under section 251 as eligible to apply for adjustment assistance may, at any time within 2 years after the date of such certification, file an application with the Secretary for adjustment assistance under this chapter. Such application shall include a proposal for the economic adjustment of such firm.

(b) Adjustment assistance under this chapter consists of technical assistance and financial assistance, which may be furnished singly or in combination. The Secretary shall approve a firm's application for adjustment assistance only if he determines—

(1) that the firm has no reasonable access to financing through the private capital market, and

(2) that the firm's adjustment proposal—

(A) is reasonably calculated materially to contribute to the economic adjustment of the firm,

(B) gives adequate consideration to the interests of the workers of such firm, and

(C) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.

(c) In order to assist a firm which has been certified

as eligible to apply for adjustment assistance under this chapter in preparing a viable adjustment proposal, the Secretary may furnish technical assistance to such firm.

(d) Whenever the Secretary determines that any firm no longer requires assistance under this chapter, he shall terminate the certification of eligibility of such firm and promptly have notice of such termination published in the Federal Register. Such termination shall take effect on the termination date specified by the Secretary.

SEC. 253. TECHNICAL ASSISTANCE.

(a) The technical assistance furnished under this chapter shall consist of—

(1) assistance to the firm in developing a proposal for its economic adjustment,

(2) assistance in the implementation of such a proposal, or

(3) both.

(b) The Secretary may provide to a firm certified under section 251, on such terms and conditions as he determines to be appropriate, such technical assistance as in his judgment will carry out the purposes of this chapter with respect to such firm.

(c) The Secretary shall furnish technical assistance under this chapter through existing agencies and through private individuals, firms, and institutions. In the case of

assistance furnished through private individuals, firms, and institutions (including private consulting services), the Secretary may share the cost thereof (but not more than 75 percent of such cost may be borne by the United States).

SEC. 254. FINANCIAL ASSISTANCE.

(a) The Secretary may provide to a firm, on such terms and conditions as he determines to be appropriate, such financial assistance in the form of direct loans or guarantees of loans as in his judgment will materially contribute to the economic adjustment of the firm. The assumption of an outstanding indebtedness of the firm, with or without recourse, shall be considered to be the making of a loan for purposes of this section.

(b) Loans or guarantees of loans shall be made under this chapter only for the purpose of making funds available to the firm—

(1) for acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery, or

(2) to supply such working capital as may be necessary to enable the firm to implement its adjustment proposal.

(c) To the extent that loan funds can be obtained from private sources (with or without a guarantee) at the rate

provided in the first sentence of section 255(b), no direct loan shall be provided to a firm under this chapter.

SEC. 255. CONDITIONS FOR FINANCIAL ASSISTANCE.

(a) No financial assistance shall be provided under this chapter unless the Secretary determines—

(1) that the funds required are not available from the firm's own resources; and

(2) that there is reasonable assurance of repayment of the loan.

(b) In the case of guaranteed loans, the guaranteed portion of the loan shall not bear interest at a rate higher than the maximum rate permissible in the case of loans to small businesses which are guaranteed by the Small Business Administration. The rate of interest on direct loans shall be the prevailing rate authorized for loans to small businesses by the Small Business Administration.

(c) The Secretary shall make no loan or guarantee of a loan having a maturity in excess of 25 years, including renewals and extensions. Such limitation on maturities shall not, however, apply—

(1) to securities or obligations received by the Secretary as claimant in bankruptcy or equitable reorganization, or as creditor in other proceedings attendant upon insolvency of the obligor, or

(2) to an extension or renewal for an additional

period not exceeding 10 years, if the Secretary determines that such extension or renewal is reasonably necessary for the orderly liquidation of the loan.

(d) In making guarantees of loans, and in making direct loans, the Secretary shall give priority to firms which are small businesses within the meaning of the Small Business Act (and regulations promulgated thereunder).

(e) No loan shall be guaranteed by the Secretary in an amount which exceeds 90 percent of that portion of the loan made for purposes specified in section 254(b).

(f) The Secretary shall maintain operating reserves with respect to anticipated claims under guarantees made under this chapter. Such reserves shall be considered to constitute obligations for purposes of section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C. 200).

(g) (1) The aggregate amount of loans made to any firm which are guaranteed under this chapter and which are outstanding at any time shall not exceed $3,000,000.

(2) The aggregate amount of direct loans made to any firm under this chapter which are outstanding at any time shall not exceed $1,000,000.

SEC. 256. DELEGATION OF FUNCTIONS TO SMALL BUSINESS ADMINISTRATION; AUTHORIZATION OF APPROPRIATIONS.

(a) In the case of any firm which is a small business

(within the meaning of the Small Business Act and regulations promulgated thereunder), the Secretary may delegate all or any part of his functions under this chapter (other than the functions under section 251 with respect to the certification of eligibility) to the Administrator of the Small Business Administration.

(b) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary from time to time to carry out his functions under this chapter in connection with furnishing adjustment assistance to firms, which sums are authorized to be appropriated to remain available until expended.

SEC. 257. ADMINISTRATION OF FINANCIAL ASSISTANCE.

(a) In making and administering guarantees and loans under section 254, the Secretary may—

(1) require security for any such guarantee or loan, and enforce, waive, or subordinate such security;

(2) assign or sell at public or private sale, or otherwise dispose of, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with such guarantees or loans, and collect, compromise, and obtain deficiency judgments with respect to all obligations assigned to or held by him in

connection with such guarantees or loans until such time as such obligations may be referred to the Attorney General for suit or collection;

(3) renovate, improve, modernize, complete, insure, rent, sell, or otherwise deal with, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by him in connection with such guarantees or loans;

(4) acquire, hold, transfer, release, or convey any real or personal property or any interest therein whenever deemed necessary or appropriate, and execute all legal documents for such purposes; and

(5) exercise all such other powers and take all such other acts as may be necessary or incidental to the carrying out of functions pursuant to section 254.

(b) Any mortgage acquired as security under subsection (a) shall be recorded under applicable State law.

SEC. 258. PROTECTIVE PROVISIONS.

(a) Each recipient of adjustment assistance under this chapter shall keep records which fully disclose the amount and disposition by such recipient of the proceeds, if any, of such adjustment assistance, and which will facilitate an effective audit. The recipient shall also keep such other records as the Secretary may prescribe.

(b) The Secretary and the Comptroller General of the United States shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient pertaining to adjustment assistance under this chapter.

(c) No adjustment assistance under this chapter shall be extended to any firm unless the owners, partners, or officers certify to the Secretary—

(1) the names of any attorneys, agents, and other persons engaged by or on behalf of the firm for the purpose of expediting applications for such adjustment assistance; and

(2) the fees paid or to be paid to any such person.

(d) No financial assistance shall be provided to any firm under this chapter unless the owners, partners, or officers shall execute an agreement binding them and the firm for a period of 2 years after such financial assistance is provided, to refrain from employing, tendering any office or employment to, or retaining for professional services any person who, on the date such assistance or any part thereof was provided, or within 1 year prior thereto, shall have served as an officer, attorney, agent, or employee occupying a position or engaging in activities which the Secretary shall have determined involve discretion with respect to the provision of such financial assistance.

SEC. 259. PENALTIES.

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, or whoever willfully overvalues any security, for the purpose of influencing in any way the action of the Secretary under this chapter, or for the purpose of obtaining money, property, or anything of value under this chapter, shall be fined not more than $5,000 or imprisoned for not more than 2 years, or both.

SEC. 260. SUITS.

In providing technical and financial assistance under this chapter the Secretary may sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against him or his property. Nothing in this section shall be construed to except the activities pursuant to sections 253 and 254 from the application of sections 516, 547, and 2679 of title 28 of the United States Code.

SEC. 261. DEFINITIONS.

For purposes of this chapter, the term "firm" includes an individual proprietorship, partnership, joint venture, asso-

ciation, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy, and receiver under decree of any court. A firm, together with any predecessor or successor firm, or any affiliated firm controlled or substantially beneficially owned by substantially the same persons, may be considered a single firm where necessary to prevent unjustifiable benefits.

SEC. 262. REGULATIONS.

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.

SEC. 263. TRANSITIONAL PROVISIONS.

(a) In any case where a firm or its representative has filed a petition with the Tariff Commission under section 301 (a) (2) of the Trade Expansion Act of 1962, and the Tariff Commission has not made its determination under section 301 (c) of that Act before the date of the enactment of this Act, such firm may reapply under the provisions of section 251 of this Act. In order to assist the Secretary in making his determination under such section 251 with respect to such firm, the Tariff Commission shall make available to the Secretary, on request, data it has acquired with respect to its investigation.

(b) If, on the date of the enactment of this Act, the President (or his delegate) has not taken action under section 302 (c) of the Trade Expansion Act of 1962 with

respect to a report of the Tariff Commission containing an affirmative finding under section 301(c) of that Act or a report with respect to which an equal number of Commissioners are evenly divided, the Secretary may treat such report as a certification of eligibility made under section 251 of this Act on the date of the enactment of this Act.

(c) Any certification of eligibility of a firm under section 302(c) of the Trade Expansion Act of 1962 made before the date of the enactment of this Act shall be treated as a certification of eligibility made under section 251 of this Act on the date of the enactment of this Act; except that any firm whose adjustment proposal was certified under section 311 of the Trade Expansion Act of 1962 before the date of the enactment of this Act may receive adjustment assistance at the level set forth in such certified proposal.

SEC. 264. STUDY BY SECRETARY OF COMMERCE WHEN TARIFF COMMISSION BEGINS INVESTIGATION; ACTION WHERE THERE IS AFFIRMATIVE FINDING.

(a) Whenever the Tariff Commission begins an investigation under section 201 with respect to an industry, the Tariff Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of—

(1) the number of firms in the domestic industry

producing the like or directly competitive article which have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the orderly adjustment of such firms to the import competition may be facilitated through the use of existing programs.

(b) The report of the Secretary of the study under subsection (a) shall be made to the President not later than 15 days after the day on which the Tariff Commission makes its report under section 201. Upon making its report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

(c) Whenever the Tariff Commission makes an affirmative finding under section 201(b) that increased imports are a substantial cause of serious injury or threat thereof with respect to an industry, the Secretary shall make available, to the extent feasible, full information to the firms in such industry about programs which may facilitate the orderly adjustment to import competition of such firms, and he shall provide assistance in the preparation and processing of petitions and applications of such firms for program benefits.

TITLE III—RELIEF FROM UNFAIR TRADE PRACTICES

CHAPTER 1—FOREIGN IMPORT RESTRICTIONS AND EXPORT SUBSIDIES

SEC. 301. RESPONSES TO CERTAIN TRADE PRACTICES OF FOREIGN GOVERNMENTS.

(a) Whenever the President determines that a foreign country or instrumentality—

(1) maintains unjustifiable or unreasonable tariff or other import restrictions which impair the value of trade commitments made to the United States or which burden, restrict, or discriminate against United States commerce,

(2) engages in discriminatory or other acts or policies which are unjustifiable or unreasonable and which burden or restrict United States commerce, or

(3) provides subsidies (or other incentives having the effect of subsidies) on its exports of one or more products to the United States or to other foreign markets which have the effect of substantially reducing sales of the competitive United States product or products in the United States or in those other foreign markets,

the President shall take all appropriate and feasible steps within his power to obtain the elimination of such restrictions or subsidies, and he—

(A) may suspend, withdraw, or prevent the application of, or may refrain from proclaiming, benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality; and

(B) may impose duties or other import restrictions on the products of such foreign country or instrumentality for such time as he deems appropriate.

(b) In determining what action to take under subsection (a), the President shall consider the relationship of such action to the international obligations of the United States and to the purposes stated in section 2. Any action taken under subsection (a) may be on a nondiscriminatory treatment basis or otherwise; except that, in the case of a restriction, act, policy, or practice of any foreign country or instrumentality which is unreasonable but not unjustifiable, the action taken under subsection (a) shall be taken only with respect to such country or instrumentality.

(c) The President in making a determination under this section, may take action under subsection (a) (3) with respect to the exports of a product to the United States by a foreign country or instrumentality if—

(1) the Secretary of the Treasury has found that such country or instrumentality provides subsidies (or other incentives having the effect of subsidies) on such exports;

(2) the Tariff Commission has found that such

exports to the United States have the effect of substantially reducing sales of the competitive United States product or products in the United States; and

(3) the President finds that the Antidumping Act, 1921, and section 303 of the Tariff Act of 1930 are inadequate to deter such practices.

(d) The President shall provide an opportunity for the presentation of views concerning the import restrictions, acts, policies, or practices referred to in paragraph (1), (2), or (3) of subsection (a). Upon request by any interested person, the President shall provide for appropriate public hearings with respect to such restrictions, acts, policies, or practices after reasonable notice, and he shall provide for the issuance of regulations concerning the conduct of hearings under this subsection and subsection (e).

(e) Before the President takes any action under subsection (a) with respect to the import treatment of any product—

(1) he shall provide an opportunity for the presentation of views concerning the taking of action with respect to such product,

(2) upon request by any interested person, he shall provide for appropriate public hearings with respect to the taking of action with respect to such product, and

(3) he may request the Tariff Commission for its

views as to the probable impact on the economy of the United States of the taking of action with respect to such product.

SEC. 302. PROCEDURE FOR CONGRESSIONAL DISAPPROVAL OF CERTAIN ACTIONS TAKEN UNDER SECTION 301.

(a) Whenever the President takes any action under subparagraph (A) or (B) of section 301(a), he shall promptly transmit to the House of Representatives and to the Senate a document setting forth the action which he has so taken, together with his reasons therefor.

(b) If, before the close of the 90-day period beginning on the day on which the copy of the document referred to in subsection (a) is delivered to the House of Representatives and to the Senate, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval under the procedures set forth in section 151, then such action under section 301(a) shall have no force and effect beginning with the day after the date of the adoption of such resolution of disapproval.

CHAPTER 2—ANTIDUMPING DUTIES

SEC. 321. AMENDMENTS TO THE ANTIDUMPING ACT OF 1921.

(a) Section 201(b) of the Antidumping Act, 1921 (19 U.S.C. sec. 160(b)), is amended to read as follows:

"(b) In the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, he shall, within six months, or in more complicated investigations within nine months, after the question of dumping was raised by or presented to him or any person to whom authority under this section has been delegated—

"(1) determine whether there is reason to believe or suspect, from the invoice or other papers or from information presented to him or to any other person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value); and

"(2) if his determination is affirmative, publish a notice of that fact in the Federal Register, and require, under such regulations as he may prescribe, the withholding of appraisement as to such merchandise entered, or withdrawn from warehouse for consumption, on or after the date of publication of that notice in the Federal Register (unless the Secretary determines that the withholding should be made effective as of an earlier date not more than one hundred and twenty days before the question of dumping was raised by or presented to him or any person to whom authority under this section has been delegated, in which case the effective date of the with-

holding shall be such earlier date), until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subsection (a) in regard to such merchandise; or

"(3) if his determination is negative (or if he tentatively determines that the investigation should be discontinued), publish notice of that fact in the Federal Register, but the Secretary may within three months thereafter order the withholding of appraisement if he then has reason to believe or suspect, from the invoice or other papers or from information presented to him or to any other person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value) and such order of withholding of appraisement shall be subject to the provisions of paragraph (2). If no withholding of appraisement is ordered within such three-month period, the Secretary shall, not later than the close of such period, issue a determination terminating or discontinuing the investigation.

For purposes of this subsection, the question of dumping shall be deemed to have been raised or presented on the date on which a notice is published in the Federal Register that information relative to dumping has been received in accord-

ance with regulations prescribed by the Secretary."

(b) Section 201 (c) of the Antidumping Act, 1921 (19 U.S.C. sec. 160 (c)), is amended to read as follows:

"(c) (1) Before making any determination pursuant to subsection (a) of this section, the Secretary or the Tariff Commission, as the case may be, shall conduct a hearing at which—

"(A) any foreign manufacturer or exporter or domestic importer of the foreign merchandise in question shall have the right to appear by counsel or in person; and

"(B) any other person, firm, or corporation may make application and, upon good cause shown, may be allowed by the Secretary or the Tariff Commission, as the case may be, to intervene and appear at such hearing by counsel or in person.

"(2) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the Tariff Commission, upon making its determination under subsection (a), shall publish in the Federal Register such determination, whether affirmative or negative, together with a statement of findings and conclusions, and the reasons or bases therefor, on all the material issues of fact or law presented.

"(3) The hearings provided for under this section shall

be exempt from sections 554, 555, 556, 557, and 702 of title 5 of the United States Code. The transcript of any hearing, together with all information developed in connection with the investigation (other than items to which confidential treatment has been granted by the Secretary or the Tariff Commission, as the case may be), shall be made available in the manner and to the extent provided in section 552 (b) of such title 5."

(c) Section 203 of the Antidumping Act, 1921 (19 U.S.C. sec. 162), is amended to read as follows:

"PURCHASE PRICE

"SEC. 203. For the purposes of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and less the amount, if included in such price, of any export tax imposed by the coun-

try of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation; and plus the amount of any taxes rebated or not collected, by reason of the exportation of the merchandise to the United States, which rebate or noncollection has been determined by the Secretary to be a bounty or grant within the meaning of section 303 of the Tariff Act of 1930."

(d) Section 204 of the Antidumping Act, 1921 (19 U.S.C. sec. 163), is amended to read as follows:

"EXPORTER'S SALES PRICE

"SEC. 204. For the purposes of this title, the exporter's sale price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other

costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States, and (5) the amount of any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on the imported merchandise after the importation of the merchandise and before its sale to a person who is not the exporter of the merchandise within the meaning of section 207; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which

have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation; and plus the amount of any taxes rebated, or not collected, by reason of the exportation of the merchandise to the United States, which rebate or noncollection has been determined by the Secretary to be a bounty or grant within the meaning of section 303 of the Tariff Act of 1930."

(c) Section 205 of the Antidumping Act, 1921 (19 U.S.C. sec 164), is amended by adding "(a)" immediately before the word "For", and by adding at the end thereof the following new subsections:

"(b) Whenever the Secretary has reasonable grounds to believe or suspect that sales in the home market of the country of exportation, or, as appropriate, to countries other than the United States, have been made at prices which represent less than the cost of producing the merchandise in question, he shall determine whether, in fact, such sales were made at less than the cost of producing the merchandise. If the Secretary determines that sales made at less than cost of production (1) have been made over an extended period of time and in substantial quantities, and (2) are not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade, such sales shall be dis-

regarded in the determination of foreign market value. Whenever sales are disregarded by virtue of having been made at less than the cost of production and the remaining sales, made at not less than cost of production, are determined to be inadequate as a basis for the determination of foreign market value, the Secretary shall determine that no foreign market value exists and employ the constructed value of the merchandise in question.

"(c) If available information indicates to the Secretary that the economy of the country from which the merchandise is exported is state-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under subsection (a), the Secretary shall determine the foreign market value of the merchandise on the basis of the normal costs, expenses, and profits as reflected by either—

"(1) the prices, determined in accordance with subsection (a) and section 202, at which such or similar merchandise of a non-state-controlled-economy country or countries is sold either (A) for consumption in the home market of that country or countries, or (B) to other countries, including the United States; or

"(2) the constructed value of such or similar merchandise in a non-state-controlled-economy country or countries as determined under section 206."

(f) Section 213 (3) of the Antidumping Act, 1921 (19 U.S.C. sec. 170a (3)), is amended by striking out subparagraphs (B), (D), and (F), and by redesignating subparagraphs (C) and (E) as subparagraphs (B) and (C), respectively.

(g) (1) The amendments made by subsections (a) and (b) of this section shall apply with respect to all questions of dumping raised or presented on or after the date of the enactment of this Act.

(2) The amendments made by subsections (c) through (f) of this section shall apply with respect to all merchandise which is not appraised on or before the date of the enactment of this Act; except that such amendments shall not apply with respect to any merchandise which—

(A) was exported from the country of exportation before such date of the enactment, and

(B) is subject to a finding under the Antidumping Act, 1921, which (i) is outstanding on such date of enactment, or (ii) was revoked on or before such date of enactment but is still applicable to such merchandise.

CHAPTER 3—COUNTERVAILING DUTIES

SEC. 331. AMENDMENTS TO SECTIONS 303 AND 516 OF THE TARIFF ACT OF 1930.

(a) Section 303 of the Tariff Act of 1930 (19 U.S.C. sec. 1303) is amended to read as follows:

"SEC. 303. COUNTERVAILING DUTIES.

"(a) LEVY OF COUNTERVAILING DUTIES.—(1) Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The Secretary of the Treasury shall determine within twelve months after the date on which the question is presented to him whether any bounty or grant is being paid or bestowed.

"(2) In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there is an affirmative determination by the Tariff

Commission under subsection (b) (1); except that such a Tariff Commission determination shall be required only for such time as a determination of injury is required by the international obligations of the United States.

"(3) The Secretary of the Treasury shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated.

"(4) Whenever, in the case of any imported article or merchandise as to which the Secretary has not determined whether a bounty or grant is being paid or bestowed, the Secretary concludes, from information presented to him or to any person to whom authority under this section has been delegated, that a formal investigation into the question of whether a bounty or grant is being paid or bestowed is warranted, he shall forthwith publish notice of the initiation of such an investigation in the Federal Register. The date of publication of such notice shall be considered the date on which the question is presented to the Secretary within the meaning of subsection (a) (1).

"(5) The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of the duties under this section. All determinations by the Secretary under this section, and all determina-

tions by the Tariff Commission under subsection (b) (1) (whether affirmative or negative), shall be published in the Federal Register.

"(b) INJURY DETERMINATIONS WITH RESPECT TO DUTY-FREE MERCHANDISE; SUSPENSION OF LIQUIDATION.—(1) Whenever the Secretary of the Treasury has determined under subsection (a) that a bounty or grant is being paid or bestowed with respect to any article or merchandise which is free of duty, he shall—

"(A) so advise the United States Tariff Commission, and the Commission shall determine within three months thereafter, and after such investigation as it deems necessary, whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States; and the Commission shall notify the Secretary of its determination; and

"(B) require, under such regulations as he may prescribe, the suspension of liquidation as to such article or merchandise entered, or withdrawn from warehouse, for consumption, on or after the thirtieth day after the date of the publication in the Federal Register of his determination under subsection (a) (1), and such suspension of liquidation shall continue until the further order

of the Secretary or until he has made public an order as provided for in paragraph (3) of this subsection.

"(2) For the purposes of this subsection, the Tariff Commission shall be deemed to have made an affirmative determination if the Commissioners of such Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

"(3) If the determination of the Tariff Commission under paragraph (1) (A) is in the affirmative, the Secretary shall make public an order directing the assessment and collection of duties in the amount of such bounty or grant as is from time to time ascertained and determined, or estimated, under subsection (a).

"(c) APPLICATION OF AFFIRMATIVE DETERMINATION.—An affirmative determination by the Secretary of the Treasury under subsection (a) (1) with respect to any imported article or merchandise shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the thirtieth day after the date of the publication in the Federal Register of such determination. In the case of any imported article or merchandise which is free of duty, so long as a finding of injury is required by the international obligations of the United States, the preceding sentence shall apply only if the Tariff Commission

makes an affirmative determination of injury under subsection (b) (1).

"(d) ARTICLES SUBJECT TO QUANTITATIVE LIMITATIONS.—Whenever the Secretary determines, after seeking information and advice from such agencies as he may deem appropriate, that any article is subject to a quantitative limitation imposed by the United States on its importation into, or subject to an effective quantitative limitation on its exportation to, the United States and that such quantitative limitation is an adequate substitute for the imposition of a duty under this section, the imposition of an additional duty under this section shall not be required.

"(e) TEMPORARY PROVISION WHILE NEGOTIATIONS ARE IN PROCESS.—If, after seeking information and advice from such agencies as he may deem appropriate, the Secretary determines, at any time before the day which is four years after the date of the enactment of this subsection, that the imposition of an additional duty under this section with respect to any article would be likely to seriously jeopardize the satisfactory completion of the negotiations contemplated by sections 101 and 102 of the Trade Reform Act of 1978, the imposition of such additional duty under this section with respect to such article shall not be required. In the case of a question presented on or after the day which is one year after the date of the enactment of this Act, this

subsection shall not apply with respect to any article which is the product of facilities owned or controlled by a developed country if the investment in, or the operation of, such facilities, is subsidized."

(b) Section 516 of the Tariff Act of 1930 (19 U.S.C. sec. 1516) is amended to read as follows:

"SEC. 516. PETITIONS BY AMERICAN MANUFACTURERS, PRODUCERS, OR WHOLESALERS.

"(a) The Secretary shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification, the rate of duty, and the additional duty described in section 303 of this Act (hereinafter in this section referred to as 'countervailing duties'), if any, imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the appraised value is too low, that the classification is not correct, that the proper rate of duty is not being assessed, or that countervailing duties should be assessed, he may file a petition with the Secretary setting forth (1) a description of the merchandise, (2) the appraised value, the classification, or the rate or rates of duty that he believes proper, and (3) the reasons for his belief including, in appropriate instances, the reasons for his belief that countervailing duties should be assessed.

"(b) If, after receipt and consideration of a petition filed by an American manufacturer, producer, or wholesaler, the Secretary decides that the appraised value of the merchandise is too low, that the classification of the article or rate of duty assessed thereon is not correct, or that countervailing duties should be assessed, he shall determine the proper appraised value or classification, rate of duty, or countervailing duties, and shall notify the petitioner of his determination. Except for countervailing duty purposes, all such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised or classified or assessed as to rate of duty in accordance with the Secretary's determination. For countervailing duty purposes, the procedures set forth in section 303 shall apply.

"(c) If the Secretary decides that the appraised value or classification of the articles or the rate of duty with respect to which a petition was filed pursuant to subsection (a) is correct, or that countervailing duties should not be assessed, he shall so inform the petitioner. If dissatisfied with the decision of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the decision, notice that he desires to contest the appraised value or classification of, or rate of duty assessed upon or

the failure to assess countervailing duties upon, the merchandise. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his decision as to the proper appraised value or classification or rate of duty or that countervailing duties should not be assessed and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value or classification of, or rate of duty imposed upon or failure to assess countervailing duties upon, such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to notify the petitioner by mail immediately when the first of such entries is liquidated."

(c) (1) Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The last sentence of section 303 (a) (1) of the Tariff Act of 1930 (as added by subsection (a) of this section) shall apply only with respect to questions presented on or after the date of the enactment of this Act.

(3) Any article which is entered or withdrawn from

warehouse free of duty as a result of action taken under title V of this Act shall be considered a nondutiable article for purposes of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. sec. 1303).

CHAPTER 4—UNFAIR IMPORT PRACTICES

SEC. 341. AMENDMENTS TO SECTION 337 OF THE TARIFF ACT OF 1930.

(a) Section 337 of the Tariff Act of 1930 (19 U.S.C. sec. 1337) is amended by redesignating subsection (h) as subsection (i) and by inserting immediately after subsection (g) the following new subsection:

"(h) UNITED STATES PATENTS.—The foregoing provisions of subsections (c) through (g) do not apply with respect to alleged unfair methods of competition and unfair acts based upon the claims of United States letters patent. Such alleged violations shall be dealt with by the commission as hereinafter provided:

"(1) Whenever the commission has reason to believe from the evidence in its possession that any article entered into the United States in violation of this section would, in the absence of exclusion, result in immediate and substantial harm, the Secretary of the Treasury shall, upon the commission's order in writing, exclude such articles from entry until an investigation by the commission may be completed; except that such articles

shall be entitled to entry under bond prescribed by the Secretary.

"(2) Whenever the existence of any such unfair method or act shall be established to the satisfaction of the commission, the commission shall order that the articles concerned in such unfair methods or acts, imported by any person violating the provisions of this section, shall be excluded from entry into the United States, and upon information of such action by the commission, the Secretary of the Treasury shall, through the proper officers, refuse such entry. The decision of the commission shall be final.

"(3) Any refusal of entry under this section shall continue in effect until the commission shall find and instruct the Secretary of the Treasury that the conditions which led to such refusal of entry no longer exist.

"(4) Any order entered pursuant to this subsection shall be made on the record after opportunity for a full hearing, including the opportunity to present legal defenses. Any person adversely affected by an action of the commission or refusal of the commission to act shall have the right to seek judicial review in the United States Court of Customs and Patent Appeals within such time after said action is made and in such manner as appeals

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may be taken from decisions of the United States Customs Court."

(b) Subsection (a) of such section 337 is amended by striking out "by the President".

(c) Subsection (b) of such section 337 is amended by striking out "To assist the President in making any decisions under this section the" and inserting in lieu thereof "The".

TITLE IV—TRADE RELATIONS WITH COUNTRIES NOT ENJOYING NONDISCRIMINATORY TREATMENT

SEC. 401. EXCEPTION OF THE PRODUCTS OF CERTAIN COUNTRIES OR AREAS.

Except as otherwise provided in this title, the President shall continue to deny nondiscriminatory treatment to the products of any country, the products of which were not eligible for column 1 tariff treatment on the date of the enactment of this Act.

SEC. 402. FREEDOM OF EMIGRATION IN EAST-WEST TRADE.

(a) To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, on or after the date of the enactment of this Act products from any nonmarket economy country shall not be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), such country

shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

(1) denies its citizens the right or opportunity to emigrate;

(2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice,

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) After the date of the enactment of this Act, (A) products of a nonmarket economy country may be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), (B) such country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees,

and (C) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country shall include information as to the nature and implementation of emigration laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter so long as such treatment received, such credits or guarantees extended, or such agreement is in effect.

(c) This section shall not apply to any country the products of which are eligible for column 1 tariff treatment on the date of the enactment of this Act.

SEC. 403. EXTENSION OF NONDISCRIMINATORY TREATMENT.

(a) The President may by proclamation extend nondiscriminatory treatment to the products of a foreign country which—

(1) has entered into a bilateral commercial agreement referred to in section 404, or

(2) has become a party to an appropriate multi-

lateral trade agreement to which the United States is also a party.

No such proclamation may take effect before the close of the applicable 90-day period referred to in section 406(c).

(b) The application of nondiscriminatory treatment shall be limited to the period of effectiveness of the obligations of the United States to such country under such bilateral commercial agreement or multilateral agreement. In addition, in the case of any foreign country receiving nondiscriminatory treatment pursuant to this title which has entered into an agreement with the United States regarding the settlement of lend-lease reciprocal aid and claims, the application of such nondiscriminatory treatment shall be limited to periods during which such country is not in arrears on its obligations under such agreement.

(c) The President may at any time suspend or withdraw any extension of nondiscriminatory treatment to any country pursuant to subsection (a), and thereby cause all products of such country to be dutiable at the column 2 rate.

SEC. 404. AUTHORITY TO ENTER INTO COMMERCIAL AGREEMENTS.

(a) Subject to the provisions of subsections (b) and (d) of this section, the President may authorize the entry into force of bilateral commercial agreements providing nondiscriminatory treatment to the products of countries

heretofore denied such treatment whenever he determines that such agreements with such countries will promote the purposes of this Act and are in the national interest.

(b) Any such bilateral commercial agreement shall—

(1) be limited to an initial period specified in the agreement which shall be no more than 3 years from the date the agreement enters into force; except that it may be renewable for additional periods, each not to exceed 3 years; if—

(A) a satisfactory balance of trade concessions has been maintained during the life of each agreement, and

(B) the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party to the bilateral agreement;

(2) provide that it is subject to suspension or termination at any time for national security reasons, or that the other provisions of such agreement shall not limit the rights of any party to take any action for the protection of its security interests;

(3) provide safeguard arrangements necessary to prevent disruption of domestic markets;

(4) if the other party to the bilateral agreement is

not a party to the Paris Convention for the Protection of Industrial Property, provide rights for United States nationals with respect to patents in such country not less than the rights specified in such convention;

(5) provide arrangements for the settlement of commercial differences and disputes; and

(6) provide for consultations for the purpose of reviewing the operation of the agreement and relevant aspects of relations between the United States and the other party.

(c) Bilateral commercial agreements referred to in subsection (a) may, in addition, include provisions concerning—

(1) arrangements for the protection of industrial rights and processes, trademarks, and copyrights;

(2) arrangements for the promotion of trade, including those for the establishment or expansion of trade and tourist promotion offices, for facilitation of activities of governmental commercial officers, participation in trade fairs and exhibits and the sending of trade missions, and for facilitation of entry, establishment, and travel of commercial representatives; and

(3) such other arrangements of a commercial nature as will promote the purposes stated in section 2.

(d) An agreement referred to in subsection (a), and a

proclamation referred to in section 403 (a), shall take effect only if, during the 90-day period referred to in section 406 (c), a disapproval resolution referred to in section 151 is not adopted.

SEC. 405. MARKET DISRUPTION.

(a) A petition may be filed, or a Tariff Commission investigation otherwise initiated, under section 201 of this Act in respect of imports of an article manufactured or produced in a country, the products of which are receiving nondiscriminatory treatment pursuant to this title, in which case the Tariff Commission shall determine (in lieu of the determination described in section 201 (b) of this Act) whether imports of such article produced in such country are causing or are likely to cause market disruption and material injury to a domestic industry producing like or directly competitive articles.

(b) For purposes of sections 202 and 203, an affirmative determination of the Tariff Commission pursuant to subsection (a) of this section shall be treated as an affirmative determination of the Tariff Commission pursuant to section 201 (b) of this Act; except that the President, in taking action pursuant to section 203 (b), may adjust imports of the article from the country in question without taking action in respect of imports from other countries.

(c) For purposes of this section, market disruption

exists whenever imports of a like or directly competitive article are substantial, are increasing rapidly both absolutely and as a proportion of total domestic consumption, and are offered at prices substantially below those of comparable domestic articles.

SEC. 406. PROCEDURE FOR CONGRESSIONAL DISAPPROVAL OF EXTENSION OR CONTINUANCE OF NONDISCRIMINATORY TREATMENT.

(a) Whenever the President issues a proclamation under section 403 extending nondiscriminatory treatment to the products of any foreign country, he shall promptly transmit to the House of Representatives and to the Senate a document setting forth the proclamation and the agreement the proclamation proposes to implement, together with his reasons therefor.

(b) On or before December 31 of each year, the President shall transmit to the Congress, with respect to each foreign country the products of which are receiving nondiscriminatory treatment under this title, a document containing the report required by section 402 (b) to be submitted on or before December 31.

(c) If, before the close of the 90-day period beginning on the day on which the copy of the document referred to in subsection (a) or (b) is delivered to the House of Representatives and to the Senate, either the House of Repre-

sentatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 151) of the extension of nondiscriminatory treatment to the products of such country or for the continuing in effect of nondiscriminatory treatment with respect to such products, as the case may be, then, beginning with the day after the date of the adoption of such resolution of disapproval, nondiscriminatory treatment shall not be in force with respect to the products of such country, and the products of such country shall be dutiable at the column 2 rate.

SEC. 407. EFFECTS ON OTHER LAWS.

The President shall from time to time reflect in general headnote 3(c) of the Tariff Schedules of the United States the provisions of this title and proclamations issued thereunder, as appropriate.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

(1) the effect such action will have on furthering the economic development of developing countries;

(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries; and

(3) the anticipated impact of such action on United States producers of like or directly competitive products.

SEC. 502. BENEFICIARY DEVELOPING COUNTRY.

(a) (1) For purposes of this title, the term "beneficiary developing country" means any country with respect to which, as of the date of entry or withdrawal from warehouse for consumption, there is in effect an Executive order by the President of the United States designating such country as a beneficiary developing country for purposes of this title. Before the President designates any country as a beneficiary developing country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(2) If the President has designated any country as a beneficiary developing country for purposes of this title, he shall not terminate such designation (either by issuing an Executive order for that purpose or by issuing an Executive order which has the effect of terminating such designation) unless, at least 30 days before such termination, he has notified the House of Representatives and the Senate of his

intention to terminate such designation, together with the considerations entering into such decision.

(3) For purposes of this title, the term "country" means any foreign country, any overseas dependent territory or possession of a foreign country, any insular possession of the United States, or the Trust Territory of the Pacific Islands. In the case of any association of countries for trade purposes no member of which is barred from designation under subsection (b), the President may by Executive order provide that all members of such association shall be treated as one country for purposes of this title.

(b) No designation shall be made under this section with respect to any of the following:

Australia	Japan
Austria	Monaco
Canada	New Zealand
Czechoslovakia	Norway
European Economic Community member states	Poland
	Republic of South Africa
Finland	Sweden
Germany (East)	Switzerland
Hungary	Union of Soviet Socialist Republics
Iceland	

In addition, the President shall not designate any country a beneficiary developing country under this section—

(1) if the products of such country do not receive

nondiscriminatory treatment by reason of general headnote 3 (e) to the Tariff Schedules of the United States; or

(2) if such country affords preferential treatment to the products of a developed country other than the United States, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated before January 1, 1976.

(c) In determining whether to designate any country a beneficiary developing country under this section, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) whether or not the other major developed countries are extending generalized preferential tariff treatment to such country; and

(4) whether or not such country has nationalized, expropriated, or seized ownership or control of property owned by a United States citizen, or by any corporation, partnership, or association not less than 50 percent beneficially owned by citizens of the United

States, without provision for the payment of prompt, adequate, and effective compensation.

SEC. 503. ELIGIBLE ARTICLES.

(a) The President shall, from time to time, publish and furnish the Tariff Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. Before any such list is furnished to the Tariff Commission, there shall be in effect an Executive order under section 502 designating beneficiary developing countries. Before any action is taken under section 501 to provide duty-free treatment for any article, the provisions of sections 131, 132, 133, and 134 of this Act shall be complied with as though action under section 501 were action under section 101 of this Act to carry out a trade agreement entered into under section 101.

(b) The duty-free treatment provided under section 501 with respect to any eligible article shall apply only—

(1) to an article which is imported directly from a beneficiary developing country into the customs territory of the United States; and

(2) if the sum of (A) the cost or value of the materials produced in the beneficiary developing country plus (B) the direct costs of processing operations performed in the beneficiary developing country equal or exceed the prescribed percentage of the appraised value

of the article at the time of its entry into the customs territory of the United States.

(c) (1) For purposes of subsection (b) (2), the prescribed percentage shall be that percentage, not less than 35 percent and not more than 50 percent of the appraised value, prescribed by the Secretary of the Treasury by regulations. Such percentage, which may be modified from time to time, shall apply uniformly to all articles from all beneficiary developing countries.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection and subsection (b).

(d) No article shall be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act or section 351 of the Trade Expansion Act of 1962.

SEC. 504. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under section 501 with respect to any article or with respect to any country; except that no rate of duty may be established in respect of any article pursuant to this section other than the rate which would apply but for this title. In taking any ac-

tion under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

(b) The President shall withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation—

(1) the products of such country are excluded from the benefit of nondiscriminatory treatment by reason of general headnote 3(e) to the Tariff Schedules of the United States; or

(2) he determines that such country has not eliminated or will not eliminate preferential treatment accorded by it to the products of a developed country other than the United States before January 1, 1976.

(c) Whenever the President determines that any country—

(1) has exported (directly or indirectly) to the United States a quantity of such article having an appraised value of more than $25,000,000 during any calendar year, or

(2) has exported (either directly or indirectly) to the United States a quantity of any article equal to or exceeding 50 percent of the value of the total imports of such article into the United States during any calendar year,

then, not later than 60 days after the close of such calendar

year, such country shall not be treated as a beneficiary developing country with respect to such article unless, on or before such 60th day, the President determines and publishes that it is in the national interest to designate, or to continue the designation of, such country as a beneficiary developing country with respect to such article.

(d) No action pursuant to section 501 may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 (19 U.S.C. sec. 1319) on coffee imported into Puerto Rico.

SEC. 505. TIME LIMIT ON TITLE; COMPREHENSIVE REVIEW.

(a) No duty-free treatment under this title shall remain in effect after the date which is 10 years after the date of the enactment of this Act.

(b) On or before the date which is 5 years after the date of the enactment of this Act, the President shall submit to the Congress a full and complete report of the operation of this title.

TITLE VI—GENERAL PROVISIONS

SEC. 601. DEFINITIONS.

For purposes of this Act—

(1) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(2) The term "other import restriction" includes a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of importation. The term does not include any orderly marketing agreement.

(3) The term "ad valorem" includes ad valorem equivalent. Whenever any limitation on the amount by which or to which any rate of duty may be decreased or increased pursuant to a trade agreement is expressed in terms of an ad valorem percentage, the ad valorem amount taken into account for purposes of such limitation shall be determined by the President on the basis of the value of imports of the articles concerned during the most recent period, before the date on which the trade agreement is entered into, determined by him to be representative.

(4) The term "ad valorem equivalent" means the ad valorem equivalent of a specific rate or, in the case of a combination of rates including a specific rate, the sum of the ad valorem equivalent of the specific rate and of the ad valorem rate. The ad valorem equivalent shall be determined by the President on the basis of the value of imports of the article concerned during the most recent period determined by him to be representative. In determining the value of imports, the President shall

utilize, to the maximum extent practicable, the standards of valuation contained in section 402 or 402a of the Tariff Act of 1930 (19 U.S.C. sec. 1401a or 1402) applicable to the article concerned during such representative period.

(5) An imported article is "directly competitive with" a domestic article at an earlier or later stage of processing, and a domestic article is "directly competitive with" an imported article at an earlier or later stage of processing, if the importation of the article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article. For purposes of this paragraph, the unprocessed article is at an earlier stage of processing.

(6) The term "modification", as applied to any duty or other import restriction, includes the elimination of any duty or other import restriction.

(7) The term "existing" without the specification of any date, when used with respect to any matter relating to entering into or carrying out a trade agreement or other action authorized by this Act, means existing on the day on which such trade agreement is entered into or such other action is taken, and, when referring to a rate of duty, refers to the nonpreferential rate of

duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing in column 1 of the Tariff Schedules of the United States on such day.

(8) A product of a country or area is an article which is the growth, produce, or manufacture of such country or area.

(9) The term "nondiscriminatory treatment" means most-favored-nation treatment.

SEC. 602. RELATION TO OTHER LAWS.

(a) The second and third sentences of section 2(a) of the Act entitled "An Act to amend the Tariff Act of 1930," approved June 12, 1934, as amended (19 U.S.C. sec. 1352 (a)), are each amended by striking out "this Act or the Trade Expansion Act of 1962" and inserting in lieu thereof "this Act or the Trade Expansion Act of 1962 or the Trade Reform Act of 1973".

(b) Section 242 of the Trade Expansion Act of 1962 is amended as follows:

(1) by striking out "351 and 352" in subsection (a) and inserting in lieu thereof "201, 202, and 203 of the Trade Reform Act of 1973";

(2) by striking out "with respect to tariff adjustment" in subsection (b) (2);

(3) by striking out "301 (e)" in subsection (b) (2) and inserting in lieu thereof "201 (d) of the Trade Reform Act of 1973";

(4) by striking out "concerning foreign import restrictions" in subsection (b) (3); and

(5) by striking out "section 252 (d)" each place it appears and inserting in lieu thereof "subsections (c) and (d) of section 301 of the Trade Reform Act of 1973".

(c) Section 351 (c) (1) (B) of the Trade Expansion Act of 1962 is amended by striking out "unless extended under paragraph (2),".

(d) Sections 202, 211, 212, 213, 221, 222, 223, 224, 225, 226, 231, 241, 243, 252, 253, 254, 255 (a), 256, so much of 301 and 302 as is not repealed by subsection (d), 311 through 315, 317 (a), 351 (c) (2) and (d) (3), 361, 401, 402, 403, 404, and 405 (1), (3), (4), and (5) of the Trade Expansion Act of 1962 are repealed.

(e) Sections 301 (a) (2) and (3), (c) (2) and (3), (d) (2), (f) (1) and (3), 302 (b) (2), (d) and (e), 321 through 338 of the Trade Expansion Act of 1962 are repealed on the 90th day following the date of the enactment of this Act.

(f) All provisions of law (other than this Act, the

Trade Expansion Act of 1962, and the Trade Agreements Extension Act of 1951) in effect after the date of enactment of this Act, referring to section 350 of the Tariff Act of 1930, to that section as amended, to the Act entitled "An Act to amend the Tariff Act of 1930," approved June 12, 1934, to that Act as amended or to the Trade Expansion Act of 1962, or to agreements entered into, or proclamations issued, or actions taken under any of such provisions, shall be construed, unless clearly precluded by the context, to refer also to this Act, or to agreements entered into or proclamations or orders issued, pursuant to this Act.

SEC. 603. TARIFF COMMISSION.

(a) In order to expedite the performance of its functions under this Act, the Tariff Commission may conduct preliminary investigations, determine the scope and manner of its proceedings, and consolidate proceedings before it.

(b) In performing its functions under this Act, the Tariff Commission may exercise any authority granted to it under any other Act.

(c) The Tariff Commission shall at all times keep informed concerning the operation and effect of provisions relating to duties or other import restrictions of the United States contained in trade agreements entered into under the trade agreements program.

SEC. 604. CONSEQUENTIAL CHANGES IN THE TARIFF SCHEDULES.

The President shall from time to time, as appropriate, embody in the Tariff Schedules of the United States the substance of the relevant provisions of this Act, and of other Acts affecting import treatment, and actions thereunder, including modification, continuance, or imposition of any rate of duty or other import restriction.

SEC. 605. SEPARABILITY.

If any provision of this Act or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act, and of the application of such provision to other circumstances or persons, shall not be affected thereby.

SEC. 606. INTERNATIONAL DRUG CONTROL.

It is the sense of the Congress that effective international cooperation is necessary to put an end to the illicit production, smuggling, trafficking in, and abuse of dangerous drugs. In order to promote such cooperation, the President shall embargo trade and investment, public and private, with any nation when the President determines that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control

Act of 1970 (21 U.S.C. sec. 801 et seq.)) produced or processed, in whole or in part, in such country, or transported through such country, from entering the United States unlawfully. Such suspension shall continue until the President determines that the government of such country has taken adequate steps to carry out the purposes of this section.

Passed the House of Representatives December 11, 1973.

Attest: W. PAT JENNINGS,
Clerk.

STATEMENT OF HON. GEORGE P. SHULTZ, SECRETARY OF THE TREASURY, ACCOMPANIED BY HON. WILLIAM D. EBERLE, SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Secretary SHULTZ. Thank you, Mr. Chairman and members of the committee.

I welcome the tone of the opening statements which I would take to be, "Look, we have some real problems in this area, don't mistake that," and so do other people around the world.

Second, the United States should play its part in working these problems out. In fact we ought to be in the leadership.

Third, at best the solutions are difficult.

And, fourth, however it comes out we have to be sure that our interests are well taken care of, and while we recognize that trade benefits all, otherwise it won't occur, we have to see that we are in a position to bargain effectively and hard for American interests. I don't know if that is a loose interpretation but it seems to me that is in general what people said and that is exactly down the line of our own thinking.

CHANGING WORLD ECONOMY

As you said, Mr. Chairman, the world economy has changed greatly since this committee last considered comprehensive foreign trade legislation. This rapid change will continue whether or not we in the United States seek to influence its future course. But we must play an active and constructive role in influencing the shape of a sensible world economy. Your approval of the Trade Reform Act of 1973 can be an important initial step toward that end.

During a time of rapid inflation and of short supply situations in many commodities, it has become more important than ever to remove artificial barriers that result in fewer goods being produced both here and abroad. Tariffs, quotas, embargoes, and other restrictions on imports and exports generally prevent each country from producing what it could produce most efficiently. Thus fewer goods are produced at higher cost and there is a loss of economic welfare to the country as a whole.

Our goal must be to improve the efficiency of the U.S. economy. At the same time, we can and we must take acount of special hardships that sometimes accompany a transition from a less efficient to a more efficient allocation of our productive resources or that sometimes accompany the rapid changes in prdouction and trade which occur with greater frequency in our modern world.

PROVISIONS OF THE TRADE BILL

The trade bill before you has been designed with these considerations in mind. It provides the President with the authority he needs to negotiate effectively on behalf of American workers, businessmen, and consumers. Briefly, the bill would provide:

(*a*) Authority to change customs duties up or down in the context of negotiated agreements;

(*b*) A congressional declaration favoring negotiations and agreements on nontariff barriers, with an optional procedure for obtaining congressional approval of these agreements where appropriate;

(*c*) Authority to raise or lower import restrictions on a temporary basis to help correct deficits or surpluses in our payments positions;

(*d*) Authority for temporary reduction of import barriers when necessary to combat inflation—we shall propose similar authority in short supply situations;

(*e*) Revised and simplified authority to raise import barriers against countries that unreasonably or unjustifiably restrict our exports; and

(*f*) Permission for the United States to extend preferential duty-free treatment to certain imports from developing countries.

These authorities are necessary to insure meaningful trade negotiations and necessary to insure that our export firms can compete on a basis of equality in international markets.

The Trade Reform Act would also provide a set of tools to deal with domestic problems that may arise in connection with international trade:

(*a*) The Trade Reform Act would introduce a fairer and less stringent test for domestic industry to qualify for temporary import relief of adjustment assistance in order to give it time to adjust to import competition or to avoid serious injury. It provides easier access and greater benefits to workers who qualify for adjustment assistance;

(*b*) The act would also improve procedures for protecting American workers and industry from unfair competition by amending the antidumping and countervailing duty statutes, although with less flexibility than I had hoped.

The act would also deal with the President's request for authority to extend equal tariff treatment to nonmarket economies. The restrictions proposed by the House of Representatives on the use of this authority, and the additional provision which would effectively preclude the continued granting of official credits to some of these countries, would in my view be extremely ill-advised. I believe, however, that a substitute wording could be found effectively to express the concern of the Congress that issues of basic human rights not be ignored, while not blocking the development of more normal economic relationships with the nonmarket economy countries.

During the last few months, the problem of assuring adequate access to the world's supply of primary raw materials has become dramatically evident, and we think it would be appropriate to reflect this new focus in the trade bill. A number of proposals have been put forward by Members of Congress, including the gentlemen here on the committee. We are receptive to these ideas and we want to make some proposals along similar lines. In brief, we ought to have authority to negotiate with major foreign suppliers adequate commitments on the availability of key raw materials. At the same time, we need unambiguous authority to withdraw the benefits of trade concessions from countries that impose illegal or unreasonable restraints on sales of commodities in short supply.

Our new concern for access to foreign supplies should not mislead us however, into thinking that our welfare is no longer endangered by import barriers. Foreign tariffs remain an important obstacle to our trade, and foreign nontariff barriers have become an increasingly difficult problem as other governments have increased their direct involvement in their economies. Recent events have created the danger of a new protectionism and a breakdown of the multilateral and non-

discriminatory trading arrangements of the postwar period. We must combat that danger and create a new momentum for cooperation in the field of trade.

The trade bill which you have before you would provide the United States with the ability to undertake such an effort. With the proposed new authority we could attempt to—

Free up agricultural trade and to cooperate with others to assure adequate world food supplies through more efficient production;

Come to grips with the unreasonable aspects of regionalism which threaten a proliferation of special trade preferences.

Rationalize, to the extent possible, the maze of nontariff barriers preventing the expansion of world trade;

Work out new answers to the problems of buffering our industries against injury from sudden surges of imports, and to better enable our workers to adjust to changing competitive situations affecting employment.

Strengthen our position in dealing with the problem of unfair trade practices.

Cooperation in the International Monetary Field

We have made substantial progress toward establishing cooperation in the international monetary field on the basis of more flexible, modernized arrangements. Changes in the relationships between major currencies have now made possible a new effort in the trade area. We no longer have to look at trade measures as a corrective for unrealistic exchange rates. We can take a long, hard look at trade for its own sake. To undertake such an effort, we will need the authority that only the Congress can provide.

Need for International Trade Reform

The need for reform of the international trading system has become clearly evident in our recent problems in the agricultural and energy fields. The agricultural problems of last year were seriously worsened by the misallocation of agricultural resources which had developed over the past decades. For too long some of the special problems associated with agriculture have been used as an excuse to exempt agricultural trade from trade rules. As a result, trade in agriculture has not followed a pattern that would have been dictated by the comparative advantages in agricultural production. A primary objective of the planned multilateral trade negotiations should be to work our cooperative arrangements that will permit the reduction of barriers to agricultural trade. We expect that our trading partners will in fact be willing to join us in some rationalization in agricultural trade.

The shortages in energy that we are presently undergoing bring to the fore another type of problem that is facing the international trading community. Solutions to the energy problem can only come about through the development of new forms of international cooperation. We must seek cooperative international arrangements while recognizing that national security considerations in many cases will not permit consumers to rely solely on current market considerations to determine the degree of their reliance on imported energy.

In the years ahead we and others will wish to offer investment opportunities to oil producing nations, some of whom will have revenues greatly in excess of appropriate current expenditures. The counterpart of these investments will be reflected in current account deficits for the major industrialized countries.

Deficits of this kind will not call for action to redress the trade balance, but the danger is that some will misunderstand the special nature of these deficits and will use them as a basis for urging protectionist action. This danger increases the need for active U.S. participation in future trade negotiations to help prevent such developments.

The Trade Reform Act of 1973, as passed in December by the House of Representatives, is an excellent vehicle for accomplishing what is needed and needed soon. The House gave this bill its careful consideration, and in the end gave its endorsement of the basic objectives and approaches which were outlined in the President's message accompanying the draft bill ways changed the authorities contained in the original draft bill, but with only a few exceptions, its changes were positive contributions to the legislation itself and to the policy that underlies that legislation. Some have suggested that the approach in the House bill is unsound because of the delegation of authority that it entails. I am sure, however, that when this committee has grappled with the issue of how we make the American voice count in international negotiations, it will agree that substantial delegation is a practical necessity.

Countervailing Duty Law

There is one provision of the bill which I wish to discuss with some specificity. As Secretary of the Treasury, I am responsible for administering the countervailing duty law. I find one provision of the bill amending this law inconsistent wth the objectives which the administration hopes to achieve.

The practices of governments in encouraging exports have become quite sophisticated. The situation was different in 1897 when the Congress enacted what is basically the present-day countervailing duty law. What is needed now is a set of international principles which will lay down agreed rules as to what is, or is not acceptable in the export subsidy area. Otherwise each government will approach the problem unilaterally. To me this latter approach should be considered a last resort since it would probably lead to retaliations and counter-retaliations.

In order to facilitate these international negotiations, the House bill authorizes the Secretary to refrain from countervailing, during a temporary 4-year period, when such action would be likely to jeopardize the satisfactory completion of the international negotiations. I agree with this House provision and consider it essential if we are to make a serious effort to achieve a successful multinational agreement.

However, the House bill restricts this discretionary authority to 1 year in the case of subsidized products from developed countries where the producer is State owned or controlled.

I believe, however, that if the multinational negotiations are to succeed, the Secretary requires a 4-year discretionary authority to refrain from countervailing in all cases where it would jeopardize the success of the negotiations. It is irrelevant for these purposes whether the pro-

duce exported to the United States is from a nationalized company. The 1-year restriction of the Secretary's discretionary authority should be removed from the bill.

Our trading partners are looking to us for leadership in this negotiation. Without U.S. participation and leadership, the multilateral trade negotiations will give way to regional and bilateral arrangements which will be but prescriptions for economic dislocation to the detriment of our producers, traders, and consumers. We cannot let this happen. We will not let it happen if appropriate trade legislation is adopted without delay.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Secretary.

We will now hear Mr. Flanigan's statement.

STATEMENT OF HON. PETER M. FLANIGAN, EXECUTIVE DIRECTOR, COUNCIL ON INTERNATIONAL ECONOMIC POLICIES

NEED FOR REFORMING INTERNATIONAL ECONOMIC SYSTEM

Mr. FLANIGAN. Thank you, Mr. Chairman and gentlemen. I am pleased to be with you today to testify in support of the Trade Reform Act. This bill is the legislative keystone of the President's efforts to reform the international economic system as a whole.

The success of the monetary arrangement in 1944 and the GATT trade rules agreed to in Geneva in 1947 brought fundamental changes in our global economy. The dramatic economic progress which has occurred since then owes much to those agreements. Yet that progress has created a new set of economic relationships in the world. And while the economic world has changed, the institutions and modes of cooperation under which states conduct their economic affairs only began to change in the last several years.

By the beginning of the 1970's it had become clear to all that our present institutions were not meeting the demands placed on them by the increased international flow of goods, services, and capital. The rigidity of the international system and of national practices had exerted an increasing stress on the flow of economic and financial resources with attendant political frictions.

This condition is especially serious when each nation's prosperity is increasingly dependent upon the prosperity of other nations. The recent shortages and dramatic price increases in agricultural products and in petroleum has brought home to all Americans the fact that nations today can no longer isolate themselves from the world's economic events. Economic policies adopted in one country are quickly felt in other nations. Growing specialization in manufacturing and greater dependence on imported goods, especially in critical raw materials, reinforce the world's economic interdependence. What is needed now are changes in the international framework to reflect for the coming decades the new economic conditions.

GOALS OF THE ADMINISTRATION

President Nixon in his annual report on foreign policy states, and I am quoting it:

Our goal is to work with other nations to build a new economic order, to meet the world's needs in the last quarter of this century. We believe these new arrangements should achieve six major objectives:

Continued economic progress from which all nations benefit;

A broader sharing of responsibility commensurate with new economic power relationships and the potential benefits to be gained;

Rules that reflect an equitable balance among the interest of all nations;

The widest possible consensus for principles of open economic intercourse, orderly economic behavior, and effective economic adjustment;

Improved methods for assuring that those principles are adhered to; and

Sufficient flexibility to allow each nation to operate within agreed standards in ways best suited to its political character, its stage of development, and its economic structure.

The achievement of these objectives can create a new balance between diverse national economic needs and a greater international unity of purpose. Economic relations can become a source of strength and harmony among countries rather than a source of friction.

These are the broad goals which the administration is seeking, in cooperation with the other nations of the world—both rich and poor. Progress will be made if the world's governments believe that their efforts at maximizing the social and economic well-being of their own citizens will be furthered by enhancing order and collective discipline in world economic relations. Any new economic structures must therefore provide sufficient flexibility to allow domestic economies to be managed effectively within the internationally agreed rules. Obtaining the agreement of sovereign nations to abide by common rules and to reduce barriers to the free flow of trade, payments and investments is a difficult task. Unfortunately, the growth of economic power which has occurred in the last 25 years has been combined with a reluctance to remove the barriers nations needed when they were less competitive. The benefits of the market mechanism are heavily discounted by those accustomed to special protections.

Reform of the international economic system must take place in all its related major areas—monetary, investment, and trade, and in the case of the latter includes both equitable access to markets and equitable access to supplies. The key to progress in each of these areas is consistency and discipline in the international application of agreed rules. Furthermore, if we are to move toward a world in which market forces are allowed to operate freely, we must achieve substantial progress in all three areas. A piecemeal approach will not work. Progress in one area can easily be offset by restrictions in another. For example, the lowering of tariffs and removal of nontariff barriers will have little effect if nations are allowed to manipulate their exchange rates to restrict imports by undervaluing their currencies. Similarly, flexible exchange rates can readily be frustrated by barriers to capital flows.

The solutions to the problems we face lie in a major world effort. The dedication of the United States to this effort will be measured in large part by the shape of the legislation we are discussing today. It is clear that without the full support of the United States, reform is impossible. As the preeminent world economic power we must exercise a leadership role.

Multilateral Trade Negotiations

During the discussions following the Smithsonian Agreement in 1971, the United States, the European Community and Japan agreed to initiate and actively support multilateral comprehensive trade negotiations in the GATT framework. This initiative culminated at a min-

isterial level meeting held in Tokyo last September in which 101 countries joined in opening multilateral trade negotiations. The stated purposes of the negotiations are:

> To achieve the expansion and ever greater liberalization of world trade through the progressive dismantling of obstacles to trade, to improve the international framework for the conduct of world trade and to secure additional benefits for the international trade of developing countries.

The legislative mandate that the U.S. negotiators receive from the Congress will, in effect, determine the progress which can be made in these negotiations. The movement toward a more equitable and open trading world is dependent on the prompt enactment of the Trade Reform Act of 1973.

Five Basic Purposes of Trade Reform Act

The Trade Reform Act of 1973 is designed to make possible the accomplishment of five basic purposes. The first is to negotiate a more open trading world. Authority is provided not only to engage in reciprocal negotiations on tariffs but also to negotiate the elimination and reduction of non-tariff trade distorting practices, subject to cooperation with the Congress under the veto procedure. With the success of the Kennedy round in 1967 in reducing tariffs among the world's major trading nations, non-tariff practices have become the major impediment to fair competition and the free flow of goods in international trade. Major attention will be given in the multilateral trade negotiations to eliminating and reducing these trade distorting measures. The job will not be easy as many of these practices are imbedded in national laws and policies.

The second major purpose is to guarantee fair treatment for U.S. products in world trade. The trade bill provides authorities to protect U.S. producers from unjustifiable and unreasonable international trade practices. We firmly believe that for trade to be free it must also be fair. Although the basis for an open and equitable trading system is cooperation, experience indicates that cooperation is often enhanced when there is a clear understanding that all parties are firmly committed to protecting their own rights.

The third purpose of the bill is to enable us to act effectively to ease the adjustment of American workers and industries to fair import competition when these imports increase at a rate which causes or threatens serious injury. We must be able to manage surges of imports. There is agreement between the Congress and the administration that the present escape clause and adjustment assistance provisions of the Trade Expansion Act must be substantially liberalized. A revised escape clause, better adjustment assistance, and staging provisions insure that the benefits which all Americans receive from a more open trading world will not impact unfairly on certain industries and workers in our country.

While it is important that the United States have authority comparable to that which other trading nations have to deal with increased imports, we believe that an effective safeguard mechanism, and, we trust, a new international agreement on the use of safeguards with objective standards, provides a better long-term and more stable solution.

The fourth major objective is to provide the necessary permanent authorities to effectively manage U.S. trade policy. The bill provides more modern authority to use trade measures as a tool in dealing with the balance of payments, inflation, and national security problems. Authority is also provided to deal with problems of short supply, compensation, renegotiation, termination, and withdrawal related to trade agreements.

The final objective in the trade bill is to open up and take advantage of new trade opportunities with all countries. Authority is provided to institute a system of generalized tariff preferences for less developed countries under which the United States would grant duty-free tariff treatment for 10 years to less developed country imports. Authority is also provided to grant nondiscriminatory treatment to the products of the Soviet Union and other nonmarket economies. As you know, the administration has strong reservations with respect to the restrictions placed on the granting of nondiscriminatory tariff treatment and the use of export credits in trade with Communist nations. Secretary Kissinger, who will be meeting with you later this week, will discuss these with the committee.

Export Restrictions on Vital Raw Materials

Legislative proposals introduced by Senators Mondale, Ribicoff, and Chiles indicate congressional concern about the problem of export restrictions of vital raw materials. The administration shares these concerns that have led to these proposals and will work with the committee on appropriate legislation. The problems of short supply induced through export controls imposed by government can only be alleviated through cooperative action. Internationally agreed procedures and principles to help assure equal access to the world's scarce resources are urgently needed.

There are currently few effective international restrictions on governmental export practices. Nations have historically refused to relinquish their complete independence of economic action in this area.

In considering legislation directing the President to seek an international agreement assuring equitable access to the world's raw materials, the Congress must address a basic issue. In asking for nondiscriminatory treatment from others, we as a major supplier must examine the impact on our own practices.

Inconsistent Trade Policies

The choice is clear, but not easy. The United States, along with many other nations, has occasionally used trade policy inconsistently. We as a nation must be willing to accept internationally agreed constraints on our freedom to act unilaterally for domestic or other political purposes in exchange for other nations accepting identical constraints.

We are receptive to the proposals that have been made in the Senate. We will also be putting forward additional proposals to amend both the trade bill and the Export Administration Act.

The dislocations from major economic events, such as the oil crisis, pose the danger of a new protectionism. The economic uncertainties triggered by shortages and price increases of basic commodities are causing dramatic and rapid shifts in demand. The new protectionism

would seek to ameliorate the effects of these shifts by restricting imports or by restricting exports of needed raw materials. This would be a prescription for chaos in an interdependent world. We, therefore, need now, even more than a year ago, to press forward on this legislation and the trade reform negotiations, in order to prevent the certain catastrophe that protectionism would produce.

We believe that our commitment to the principle of strengthening the role of the market in the monetary, trade, and investment areas is the right one. Our proposals on monetary reform suggest that the market be a major component in the determination of realistic exchange rates. Our trade proposals suggest that we lower barriers and create a system in which there is a freer flow of goods allowing the market to determine which are bought by whom and where. In the investment area, we are working for removal of distortions so that the flow of capital can be predominantly decided by market forces.

It is obvious that rationalization of the world economic system cannot succeed with restrictive policies in one area and liberal policies in another.

Restrictive or coercive trade policies lead to distortions in investment flows and away from the efficient allocation of resources. While one distortion breeds another, it is also true that the reduction of distortions must be approached comprehensively in all areas of international economic activity in order to prevent nullification of the benefits to be gained from such action.

Possible Gains for the United States

The United States, with its comparative advantages, has clearly much to gain by reliance on the market in the trade area. Given the recent oil and food crises, our trade negotiations take on even greater importance. We must not only remove barriers to our exports but we must also reach new international understandings with respect to export controls so that all importing countries will have a greater sense of security of suppy and a greater stake in cooperating to make an interdependent world economy work.

If the international economic system, because of the stresses imposed on it by these crises, begins to move away from cooperation toward a pattern of independent action, not only the United States but the world will be poorer for it. As is often the case in important negotiations, the only way to keep from sliding backward is to keep moving forward. It is for this reason that I urge this committee to give prompt and favorable consideration to the Trade Reform Act of 1973. Upon your actions hinge the fate of our efforts to speed the international economic reform which is vital for both the prosperity and security of our country.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Flanigan follows:]

Testimony of Hon. Peter M. Flanigan, Executive Director, Council on International Economic Policy

I am pleased to be here today to testify in support of the Trade Reform Act of 1973 (H.R. 10710). The bill is the legislative keystone of the President's efforts to reform the international economic system.

The success of the agreements reached on monetary arrangements at Bretton Woods in 1944 and on the GATT trade rules in Geneva in 1947 has brought fun-

damental changes in our global economy. The dramatic economic progress which has occurred since then in Europe, Japan, Canada and in many developing countries has created a new set of economic relationships in the world. The United States is no longer the single dominant world economic power. Although the world has changed, the institutions and modes of cooperation under which states conduct their economic affairs only began to change in the last several years. By the beginning of the '70's it had become clear to all that our present institutions were not adequately meetings the demands placed on them by the increased international flow of goods, services, and capital. The rigidity of the international system and of national practices had exerted an increasing stress on the flow of economic and financial resources with attendants political frictions.

This condition is especially serious when each nation's prosperity is increasingly dependent upon the prosperity of other nations. The recent shortages and dramatic price increases in agricultural products and in petroleum have brought home to all Americans the fact that nations today can no longer isolate themselves from the world's economic events. Economic policies adopted in one country are quickly felt in other nations. Growing specialization in manufacturing and greater dependence on imported goods, especially in critical raw materials, reinforce the world's economic interdependence. What is needed now are changes in the international framework to reflect for the coming decades the new economic conditions.

President Nixon in his *Annual Report on Foreign Policy* states:

"Our goal is to work with other nations to build a new economic order, to meet the world's needs in the last quarter of this century. We believe these new arrangements should achieve six major objectives:

"Continued economic progress from which all nations benefit;

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"The widest possible consensus for principles of open economic intercourse, orderly economic behavior, and effective economic adjustment;

"Improved methods for assuring that those principles are adhered to; and

"Sufficient flexibility to allow each nation to operate within agreed standards in ways best suited to its political character, its stage of development, and its economic structure.

"The achievement of these objectives can create a new balance between diverse national economic needs and a greater international unity of purpose. Economic relations can become a source of strength and harmony among countries rather than a source of friction."

These are the broad goals which the Administration is seeking, in cooperation with the other nations of the world—both rich and poor. Progress will be made if the world's governments believe that their efforts at maximizing the social and economic well-being of their own citizens will be furthered by enhancing order and collective discipline in world economic relations. Any new economic structures must therefore provide sufficient flexibility to allow domestic economies to be managed effectively within the internationally agreed rules. Obtaining the agreement of sovereign nations to abide by common rules and to reduce barriers to the free flow of trade, payments and investment is a difficult task. Unfortunately, the growth of economic power which has occurred in the last 25 years has been combined with a reluctance to remove the barriers nations needed when they were less competitive. The benefits of the market mechanism are heavily discounted by those accustomed to special protections.

Reform of the international economic system must take place in all its related major areas—monetary, investment, and trade, and in the case of the latter includes both equitable access to markets and equitable access to supplies. The key to progress in each of these areas is consistency and discipline in the international application of agreed rules. Furthermore, if we are to move towards a world in which market forces are allowed to operate freely, we must achieve substantial progress in all three areas. A piecemeal approach will not work. Progress is one area can easily be offset by restrictions in another. For example, the lowering of tariffs and removal of non-tariff barriers will have little effect if nations are allowed to manipulate their exchange rates to restrict imports by undervaluing their currencies. Similarly, flexible exchange rates can readily be frustrated by barriers to capital flows.

The solutions to the problems we face lie in a major world effort. The dedication of the United States to this effort will be measured in large part by the shape of the legislation we are discussing today. It is clear that without the full

support of the United States, reform is impossible. As the preeminent world economic power we must exercise a leadership role.

During the discussions following the Smithsonian Agreement in 1971, the United States, the European Community and Japan agreed to initiate and actively support multilateral comprehensive trade negotiations in the GATT framework. This initiative culminated at a Ministerial level meeting held in Tokyo last September in which 101 countries joined in opening Multilateral Trade Negotiations. The stated purposes of the negotiations are "to achieve the expansion and ever greater liberalization of world trade through the progressive dismantling of obstacles to trade, to improve the international framework for the conduct of world trade and to secure additional benefits for the international trade of developing countries."

The legislative mandate that the United States negotiators receive from the Congress will, in effect, determine the progress which can be made in these negotiations. The movement towards a more equitable and open trading world is dependent on the prompt enactment of the Trade Reform Act of 1973.

The Act of 1973 is designed to make possible the accomplishment of five basic purposes. The first is to negotiate a more open trading world. Authority is provided not only to engage in reciprocal negotiations on tariffs but also to negotiate the elimination and reduction of non-tariff trade distorting practices, subject to cooperation with the Congress under the veto procedure. With the success of the Kennedy Round in 1967 in reducing tariffs among the world's major trading nations, non-tariff practices have become the major impediment to fair competition and the free flow of goods in international trade. Major attention will be given in the Multilateral Trade Negotiations to eliminating and reducing these trade distorting measures. The job will not be easy as many of these practices are imbedded in national laws and policies.

The second major purpose is to guarantee fair treatment for U.S. products in world trade. The trade bill provides authorities to protect United States producers from unjustifiable and unreasonable international trade practices. We firmly believe that for trade to be free it must also be fair. Although the basis for an open and equitable trading system is cooperation, experience indicates that cooperation is often enhanced when there is a clear understanding that all parties are firmly committed to protecting their own rights.

The third purpose of the bill is to enable us to act effectively to ease the adjustment of American workers and industries to fair import competition when these imports increase at a rate which causes or threatens serious injury. We must be able to manage fast surges of imports. There is agreement between the Congress and the Administration that the present escape clause and adjustment assistance provisions of the Trade Expansion Act must be substantially liberalized. A revised escape clause, better adjustment assistance, and staging provisions insure that the benefits which all Americans receive from a more open trading world will not impact unfairly on certain industries and workers in our country.

While it is important that the United States have authority comparable to that which other trading nations have to deal with increased imports, we believe that an effective safeguard mechanism, (and, we trust, a new international agreement on the use of safeguards with objective standards), provides a better long-term and more stable solution.

The fourth major objective is to provide the necessary permanent authorities to effectively manage United States trade policy. The bill provides more modern authority to use trade measures as a tool in dealing with the balance-of-payments, inflation, and national security problems. Authority is also provided to deal with problems of short supply, compensation, renegotiation, termination, and withdrawal related to trade agreements.

The final objective in the trade bill is to open up and take advantage of new trade opportunities with all countries. Authority is provided to institute a system of generalized tariff preferences for less developed countries under which the United States would grant duty-free tariff treatment for ten years to LDC imports. Authority is also provided to grant nondiscriminatory treatment to the products of the Soviet Union and other non-market economies. As you know, the Administration has strong reservations with respect to the restrictions placed on the granting of nondiscriminatory tariff treatment and the use of export credits in trade with Communist nations. Secretary Kissinger will discuss these with the Committee.

Legislative proposals introduced by Senators Mondale, Ribicoff and Chiles indicate Congressional concern about the problem of export restrictions of vital raw materials. The Administration shares these concerns that have led to these

proposals and will work with the Committee on appropriate legislation. The problems of short supply induced through governmental export controls can only be alleviated through intergovernmental cooperative action. Internationally agreed procedures and principles to help assure equal access to the world's scarce resources are urgently needed.

There are currently few effective international restrictions on governmental export practices. Nations have historically refused to relinquish their independence of economic action, except in the special cases where such international cooperation directly increased their economic security and national welfare. In most of these cases the cooperative agreements have proved short-lived when the underlying economic conditions have changed. The problem today is not different, only more acute.

In considering legislation directing the President to seek an international agreement assuring equitable access to the world's raw materials, the Congress must address two basic issues. As a practical matter, the benefits to the participating countries obtaining security of supply must equal the benefits they could obtain by retaining independence of action. This has special meaning to the United States as a major world supplier. In asking for national and nondiscriminatory treatment from others, we must examine the impact of such rules on our practices. Secondly, if the Congress mandates the President to seek international agreement to prevent governments from unilaterally introducing export barriers for political reasons, we must be careful that the language is such that it is consistent with our own laws and policies.

The issue must be squarely faced. The Congress and the Administration must decide whether the trade policy we are to follow is to be based on agreed rules of behavior or whether we and other nations will abide by such rules only if they are convenient to us. The choice ought to be clear but we must understand that it is not easy. The United States, along with many other nations, has occasionally used our trade policy inconsistently. We as a nation must be willing to accept internationally agreed constraints on *our* freedom to act unilaterally for domestic or other political purposes in exchange for other nations accepting identical constraints.

The Trade Bill in its present form provides basic authority for the President to deal with these problems internationally. We are receptive to the proposals that have been made in the Senate. We will be putting forward additional proposals to amend both the Trade Bill and the Export Administration Act. I believe we can work together to find an acceptable formula to cover this serious problem.

Trade policies are a difficult balancing of interests. While some workers, farmers, and businessmen want open international trade, others want a protected national market. The perceived benefits of protective trade policies are very important to those businesses and workers receiving this assistance; consequently, they are well organized to push their case. However, the costs of such policies are spread throughout the economy in the form of higher prices to consumers for the products protected and higher costs to producers of competitive goods through inefficient use of available resources. It should also be remembered that trade negotiations work on the basis of reciprocity and mutual advantage, so that each U.S. industry that receives special protection from world competition, reduces our opportunity to eliminate other naion's barriers to our exports.

As I pointed out earlier, monetary policies impact decisively on trade policies. In the last two years many of the world's major trading nations, including the United States, have moved away from inflexibly fixed exchange rates. Nevertheless, when financial policy makers see a weakening in their nation's payments balance, they may still exercise the option of allowing the exchange rate to move downward to make exports cheaper and imports more expensive and thereby bringing their trade balance into equilibrium.

The fact that a country may adjust its trade balance by small changes in the exchange rate has tremendous implications on the traditional practice of trade policy. If a nation establishes high tariff barriers to protect its domestic industries, the monetary adjustment mechanism which is driven by supply and demand forces of the exchange market will move the price of its currency up. As its currency upvalues, its exports become less competitive and the imports of its trading partners become cheaper and might even become competitive in its internal market despite the high tariffs. Imposing import restrictions in a world of flexible exchange rates will cause an upvaluing of one's currency so that the protection from imports afforded some domestic industries will be done at the

real expense of making domestic export industries less competitive in the world market. They would be robbing from Peter to pay Paul.

The dislocations from major economic events, such as the oil crisis, poses the danger of a new protectionism. The economic uncertainties triggered by shortages and price increases of basic commodities are causing dramatic and rapid shifts in demand. The new protectionism would seek to ameliorate the effects of these shifts, which are not caused by a fundamental imbalance or foreign competition, by restricting imports or by restricting exports of needed raw materials.

This is a prescription for chaos in an interdependent world. We therefore need now, even more than a year ago, to press forward on this legislation and the trade reform negotiations, in order to prevent the certain catastrophe that protectionism would be sure to produce.

We believe that our commitment to the principle of strengthening the role of the market in the monetary, trade and investment areas is the right one. Our proposals on monetary reform suggest that realistic exchange rates, as determined by the market, be an important component. Our trade proposals suggest that we lower barriers and create a system in which there is a freer flow of goods allowing the market to determine which are bought by whom and where. In the investment area, we are working for removal of distortions so that the flow of capital can be predominantly decided by market forces.

The introduction of the market principle in the monetary area has a liberalizing impact on trade. In the same way, the movement towards a more equitable and open trading system will have a positive impact on monetary adjustments. It is obvious that rationalization of the world economic system cannot succeed with restrictive policies in one area and liberal policies in another.

The introduction of the market principle in the monetary area has a liberalizing impact on trade. In the same way, the movement towards a more equitable and open trading system will have a positive impact on monetary adjustments. It is obvious that rationalization of the world economic system cannot succeed with restrictive policies in one area and liberal policies in another.

This is equally true of investment. Restrictive or coercive trade policies lead to distortions in investment flows and away from the efficient allocation of resources. While one distortion breeds another, it is also true that the reduction of distortions must be approached comprehensively in all areas of international economic activity in order to prevent nullification of the benefits to be gained from such action.

The United States, with its comparative advantages, has clearly much to gain by reliance on the market in the trade area. Given the recent oil and food crises, our trade negotiations take on even greater importance. We must not only remove barriers to our exports but we must also reach new international understandings with respect to export controls so that all importing countries will have a greater sense of security of supply and a greater stake in cooperating to make an interdependent world economy work.

If the international economic system, because of the stresses imposed on it by these crises, begins to move away from cooperation towards a pattern of independent action, not only the U.S. but the world will be poorer for it. As is often the case in important negotiations, the only way to keep from sliding backwards is to keep moving forward. It is for this reason that I urge this committee to give prompt and favorable consideration to the Trade Reform Act of 1973. Upon your actions hinge the fate of our efforts to speed the international economic reform which is vital for both the prosperity and security of our country.

The CHAIRMAN. Thank you, Mr. Flanigan. In line with the committee's procedure of occasionally reversing the order of questions, I will call on Mr. Roth. I will also suggest that we abide by the 10-minute rule and I will ask the staff to keep time on it in the first round of questioning and we will see where we stand after we make the first round.

Secretary SHULTZ. Does that apply to me, too, Mr. Chairman? [Laughter.]

The CHAIRMAN. It is up to each member to try to keep the witness from filibustering on his time if he wants to do so. Each Senator will have to defend his 10 minutes as best he can.

Trade Reform Urgent

Senator Roth. Well, Mr. Secretary and Mr. Flanigan, in a sense you have addressed my first question but I think it bears repeating. In my opening remarks I mentioned the importance I attached to this legislation being adopted as early as possible this year. Yet I find there are a number of commentators and a number of so-called experts who argue that energy and the other shortages, those in agriculture, and so forth, that the impact of the higher price of oil, the unemployment being experienced not only here but abroad, many other factors, mean that there are not going to be meaningful negotiations in the near future. We are really faced with a threat of protectionism. And I wonder, Mr. Secretary, if you would like to add anything as to why you think it is important now that we get this adopted as early as possible.

Secretary Shultz. Well, I think all of the things that you have mentioned argue that we work on this problem more urgently rather than less urgently because we have a structure of monetary, trade, and investment arrangements around the world. They are under great tension and strain and it is important to refresh them and renew them particularly since the strain of the events you mentioned puts a great deal of pressure on us.

I have been interested in two recent international meetings, the one in Rome of people gathered to discuss the monetary system, and the other here in Washington of people gathered to discuss energy. The first was finance-type people and the second was a mixture of finance, energy, and foreign ministry. In both cases there was a clear view that it was extremely important to maintain and develop work on the trade subject and not allow the current very large massive changes in the flows of money around the world to degenerate into a kind of a trade war. So I think that the factors you mentioned highlight the importance of getting on with it rather than suggest that we should hold back and wait and see. I am afraid what we would wait and see is a deterioration.

Inequities Seen in GATT

Senator Roth. One of the basic objectives spelled out in your testimony is, of course, to try to create a more open trading world, and to do it within the framework of GATT. Many feel—I must say I have some concern myself—that many of the provisions of GATT make an open world more difficult. Since the current legislation does provide or make provision for renegotiation of some of the GATT provisions, the question I have for you is, is there any evidence, any grounds, to believe that some of the provisions in the GATT can be modified to eliminate what is basic unfairness to this country?

Let me read you the study made by our Finance Committee: "Nondiscrimination is intended to be the cardinal principle of GATT. It is embodied in Article 1 what you give to one you give to all. This principle is aimed at making discriminatory bilateral agreements and special commercial relationships. However, GATT sanctions departure from MFN." The study goes on to spell out some of the things that happened in the Common Market. The same question arises on how to treat different types of taxes. I wonder, Mr. Secretary, or Mr. Flani-

gan, are there any grounds for optimum that our trading partners are willing to make GATT a fairer agreement?

Secretary SHULTZ. Yes, I think so. I think there is a willingness to examine the general agreement. There are committees that have already been set up on some items and, of course, we seek in this bill a certain amount or ability to pressure on just the points that you mentioned. For example, the business of setting up reverse preferences and creating a block that way, well, we seek to get at that not only in a negotiating sense but also in the sense of saying that as a restriction on the generalized preferences asked for here that countries that have reverse preferences will not get them from us. So we are trying to break that down, what we regard as a bad practice and to which you referred. So I think, yes, is the answer to your question.

POSSIBILITY OF BENEFICIARIES OF FREER TRADE SUPPORTING ADJUSTMENT ASSISTANCE

Senator ROTH. Mr. Flanigan in your testimony you mention that the third purpose of this bill is to enable us to act effectively to ease the adjustment of American workers and industries to fair import competition when these imports increase at a rate which causes or threatens serious injury.

You also state, as the benefits of trade are shared by the entire country, it is certainly fair that the cost of any adjustments to such trade are also shared.

I wonder if anyone in the administration has given any thought as to how we should try to finance these special benefits. I think that rightly so that the workers who see their jobs possibly disappearing have a legitimate gripe if we don't take care of them. As one who also is somewhat concerned about the balancing of the budget, I am concerned as to how we are going to finance some of these benefits. I am not sure the financing we have in the present legislation is adequate.

Why shouldn't those who benefit from trade, both exporters and importers, by some tax mechanism, help finance these benefits. I wonder if any thought has been given to this approach. In other words, if we are going to promote trade, and trade is going to adversely affect some workers, some industries, shouldn't those who particularly benefit from the liberal trade policies have an obligation to carry that burden? We are going to look, I think, in the near future at some of our tax legislation, tax credits. Perhaps it would be wise to let all countries as well know there will be some slight tax of some sort imposed on trade that would be used as a means of financing these benefits. Has any thought been given within the administration to such an approach?

Mr. FLANIGAN. I hate to overburden the Secretary of the Treasury, but financing our expenditures and taxes is his responsibility so I think he is probably the one who should answer your question.

Secretary SHULTZ. Well, I think, first, that everybody benefits. It isn't just people who happen to export or import who benefit from trade, but everybody gains the benefits from trade. They are widely shared, and the difficulties are experienced by a relatively few whose jobs happen to be affected, or businesses. I think we should share this

problem of helping those who are especially disadvantaged by trade widely.

My own feeling is that it is better to improve the unemployment insurance system generally than it is to provide something special in the field of trade. If we think that our system of unemployment insurance is adequate, and I do, then we should change it and make it adequate. We should do what the President proposed, apply Federal standards for benefit levels so that they get up to an adequate level, expand the coverage of the benefits so that they apply more comprehensively, and most recently he proposed a trigger mechanism that would go to particular areas, metropolitan areas, rather than States, in the triggering of additional duration for benefits. I think that is a better approach. The fact that with the energy business, we talk about special unemployment compensation there only suggests the importance of generalizing rather than particularizing it. I would have to say the House rejected that argument. They are wrong, I am right, but anyway they won. [Laughter.]

So here we are, and now we go on within the framework of the adjustment assistance program, which I accept as a good second best, and I think here there is a real financing problem, and it seems to us, it seems to me, that the additional—the first increment of adjustment assistance paid to workers should be part of the regular unemployment compensation system in the State. It is set up for the purpose of helping people make adjustments and having it administered so that State funds take part in the program, gives the States a proper stake in good administration of the program.

As you know, the way the House bill sets it up, you get a flow of funds into the Federal Treasury which finances the whole thing and I don't think that is a sound way to go about it.

Senator ROTH. I would just like to follow up. You would agree that while the entire country benefits from liberalized trade, and that there are certain industries, that benefit somewhat more just as there are going to be certain domestic industries that are going to suffer more.

I think you will also have to agree we have a deficit in Federal spending. So I wonder if it does not make good sense to try to find some vehicle, some means of having those who benefit most at least sharing more of the cost of liberalized trade policy?

Secretary SHULTZ. Well, it is obviously true that those who are participating in something that is their livelihood and, therefore, benefit more from it than other people do. I suppose you could say the people as a whole benefit from the actions of the U.S. Senate, but would you say that each Senator benefits more than the average citizen just because you happen to participate in it? I do not suppose so. I suppose people could probably do better for themselves in a narrow sense if they did not happen to be sitting here.

So I do not think it necessarily follows that because somebody is engaged in a particular line of activity that there is a special kind of a benefit there, but rather that in a large economy that permits specialization, one of the advantages we have is that it sorts people out according to their comparative advantages within the country. And that is a good thing, but it does not seem to me that we should put a special burden on exporters or importers for this assistance.

Senator ROTH. My time is up. I hope to explore this subject matter further.

The CHAIRMAN. Senator Mondale.

Senator MONDALE. Thank you, Mr. Chairman.

Traditionally, trade negotiations have concentrated largely on the question of access to markets—of how exports can be introduced into a consuming country despite a host of protective measures, duties, and nontariff barriers.

PROTECTION NEEDED AGAINST FUTURE EMBARGOES

Although access to markets continues to be a very serious problem, the world is confronted with disastrous, if not revolutionary, new strategy of the monopolistic control of short supply materials particularly crucial to the economies of developed nations. The strategy with respect to the oil exporting countries, is I think, the classic example today. We may well have many others in the near future as a result of the success of the oil embargo and resultant price increases.

It seems to me that we must concentrate in this bill not only on the traditional problem of access to a market. We must come up with remedies that will protect us from future embargoes of the scarce raw materials. If we do not, we are going to have massive inflation around the world, unemployment and maybe even more.

There is a story in this morning's New York Times about the political troubles that are sweeping democracies in Europe. This, I think, is a direct result of the problem of the inflationary prices of oil and of other products in short supply. The British election has caused the British Government to be paralyzed. We have seen earlier elections in Holland and Denmark. There was an election this morning that undermines the credibility of the Germany Government. The Scandinavian democracies are mostly in deadlock. As I go around our own country, I find people desperate about inflation. Of course, some of this inflation is oil-induced, and some of it is food-induced. But both are part of the fundamental problem: What do we do about limited supplies of commodities that are critical where a few countries can combine to restrict supply and extort high prices, often not just for economic reasons but for political reasons as well?

I know you have commented on some of this in your statement. In your opinion, does this bill contain remedies that will meet these problems, how would those remedies work and, would they be effective?

Secretary SHULTZ. I think the problem that you have identified here and in earlier statements is a very important one, and it is not adequately represented in the bill that came over from the House or that we originally proposed. There are things in the bill that will help us in this regard, and perhaps they should be sort of organized to be more clear, and then accompanied with some other things. Just what those other things should be, I think is—I do not have a set mind on that subject at all. It seems to me it is a good subject to explore because I do not think that we are adequately equipped.

But it seems to me there are the following things to be said: First, in terms of tools to do something about a situation that you do not like, our ability to retaliate should be clear, and I think it is pretty well defined in the bill as it stands now; and, second, it would be desirable to negotiate internationally agreed rules with the expectation that there will be action not just by us but internationally if somebody

violates those rules. I think probably we have the ingredients of that in the bill, although again it might be well to bring it out more clearly.

Now, of course, the crux of the matter is, what are reasonable rules. And certainly, if somebody has commodities within their borders and they are theirs, you cannot take them away from them. But it seems to me that people who trade with them are entitled to have some sense of stability about the conditions under which they are going to be traded, that they are not going to be traded on a discriminatory basis.

I think it is sort of on the other side of the coin that nondiscrimination in access to markets might be applied here. I suppose it would be kind of an ideal if we could have an international Sherman antitrust law but I do not know whether we could find the right forum to pass such a law, but I think the general idea somehow or other has to be worked out.

So I believe that you have identified an important problem, and I think there are some things that will help with it in the bill and I also believe we have a lot more thinking to do before we get to where we want to go.

I guess Mr. Flanigan has something.

Mr. FLANIGAN. May I add a thought that I alluded to in my prepared statement, Senator, and that is the fact is in considering this problem we have to consider it not only as a consumer, which we are, but also from the point of view of a supplier. The bulk of our wheat crop, as you know, each year is exported and in terms of the percentage which that export from the United States represents in world trade we are more important in the world trade in wheat than all the Persian Gulf nations taken together are in oil.

Senator MONDALE. May I interrupt, because I believe your answer shows both sides of the problem——

Mr. FLANIGAN. Yes.

Senator MONDALE. I do not mean to argue that the producing countries do not have rights. They also, of course, have economic rights. Indeed, some of the poorer countries almost have a moral claim on the rest of us for a better break. And as we found in wheat, and with soybeans, we have problems, too. Right now we are the world's most bountiful producer of agricultural products. But, the wheat sales, for example, are going to contribute to inflation in food because we have had a policy of letting this grain go into the world trade market and we are now down to very, very limited supplies. As a result, I anticipate substantial increases in food prices, not just in wheat but in related grains.

We need to establish some civilized rules which recognize the right of both producing and consuming countries. These rules should permit producing countries, as in the case of wheat, to have some right over that production so that they can keep the domestic food prices in line. But these rules should also recognize legitimate claims of international trade.

But what OPEC stands for, it seems to me, is an outrageous, uncivilized, extorting, monopolistic strategy to take a critical world commodity, increase the price out of any economic proportion, not only to generate revenues but to extort political concessions as well, to the point that the oil prices are doing more to break up NATO and the Common Market than the Russians ever could do. If we cannot do

something about inflation in this country, I believe we could well find governmental instability here.

Mr. FLANIGAN. Senator, I would not for one moment suggest there is any relationship between our actions with regard to food supplies, because we have been the most accessible market in general, and OPEC actions with regard to oil supplies. But in considering the problem, and particularly in considering your suggestion that we create some mechanism which will avoid inflation here, we should remember that that mechanism as imposed last year on soybeans, while it did have an effect for a period of time to lower soybean prices here, also created additional inflation abroad.

Senator MONDALE. Yes.

Mr. FLANIGAN. And you are concerned not only about inflation here but the effect of inflation all over the world.

Senator MONDALE. I will just make this one observation. I know the Government imposed it out of desperation, and that it did not want to do it. But we did not do it for political reasons. We did it because we were going to have all of our soybeans sold.

Secretary SHULTZ. Well, I think it is a good case and it shows the limits, too, of what can be done. In my judgment, our soybean action pricked a speculative bubble and brought the price down for everybody. We did not keep those controls on long enough to really discomfort anybody, although we scared a lot of people, and in many ways it was unfortunate, but nevertheless, we were faced with a critical situation.

Now, I think the soybean example illustrates, however, some of the limits of what a given country can do because the high soybeans prices have brought soybeans onto the market at a terrific clip, not only here but elsewhere—Brazil, which I believe, historically has been a big exporter of coffee, and that has been their biggest export by far, I think their second product is soybeans, so it has come fast. So supplies of many, but not all commodities come forward from other sources and we do have to think, and we have been thinking very hard about this, and I believe properly, across the board in agriculture. We have to think of the American farmer, and in soybeans groups of farmers have promoted that market on a world basis, just as we depend for two-thirds of our market for wheat on world markets. It is important to somebody who is a producer to have a reputation as a reliable supplier, and so there is a certain competitive aspect to this thing.

Now, I think myself that the oil producing countries have got the price too high for their own good. It is not good cartel policy if you look at it just from that standpoint. I think that, myself, if things stay the way they are—I do not believe they will, but if they did—that, say, 6 or 7 years from now they would look back and say, "What a disaster we perpetrated on ourselves," because of the increases of supplies that are going to come forward, and come forward on a massive scale under these circumstances. So I think there are some sort of economic limits as well as limits to be negotiated. But again, I think your point is very good and it needs to be worked on hard in this bill.

The CHAIRMAN. Senator Packwood.

Senator PACKWOOD. Gentlemen, I am late and if you covered part of this in your testimony, if you would tell me, I would appreciate it.

U.S. Embargo Powers

At the time of the embargo of soybeans we had before the Banking Committee a question of the export control authority and there was some question at the time about the legal right to embargo. The administration was asking for additional authority to embargo. I assume you would immediately have the power to embargo wheat now if you wanted to.

Secretary Shultz. I think so; yes.

Senator Packwood. We are projected——

Secretary Shultz. But I would like to enter the caveat that no one should take that remark as meaning we are about to do so.

Senator Packwood. Oh, no, I wanted to know about the authority.

Secretary Shultz. I say that because this is such a touchy business, and you mention that word and you start off a chain of events that is very disruptive. It is like price controls, the existence of the ability to control prices brings about price increases.

Senator Packwood. I do not want to get us into a bind and have the administration come forward and say, "We do not have the authority," and I am curious if it exists.

Secretary Shultz. I think the act, the basic act, is up for renewal June 30. I think it expires, so in any case, it has to be renewed and examined.

Senator Packwood. Very good.

We are projected to have 2.1 billion bushels of wheat this year and we normally use 700 or 800 million bushels domestically. Do you know what part of that difference is already contracted for exports?

Secretary Shultz. Well, we have an extensive set of information on domestic demand and exports recorded and also export contracts. Contracts to export are, the statistics on that are tricky to evaluate because again the thought in some people's mind that there might be controls suggested to them they ought to enlarge the volume of their export contracts so if there is a cutback they are way up here and they would only be cut back to there, which is where they wanted to be anyway. So that you can deceive yourself with some of these figures. But we have been working within the administration to have a good understanding of this, and to take steps that will insure that we will bridge over to the next crop year in a proper fashion.

Senator Packwood. Would the power of embargo include the power to embargo wheat already sold under concluded contracts?

Secretary Shultz. I am sorry, I could not hear you very well.

Senator Packwood. Does the power to embargo include the power to embargo wheat already sold for export under completed contracts?

Secretary Shultz. Well, one of the problems, of course, is that—we ran into this in the soybean case—is you get to the point where there is more sold than there is. That is what the situation was, at least according to the contracts. There were more soybeans bought than existed, and so if you are going to cut off some place you are going to cut into some contracts, and, of course, that is undesirable.

Flexible Exchange Rates

Senator Packwood. Let me switch gears on you now, George. In your testimony, you talk about the counterveiling duty law. I am not too familiar with it but I assume as I read your testimony, it gives you

some kind of unilateral power to respond to what we would call unfair unilateral export subsidies; is that correct?

Secretary SHULTZ. Yes.

Senator PACKWOOD. OK, the value added tax, your view in a value added tax to exporters, as I understand.

Secretary SHULTZ. That is correct.

Senator PACKWOOD. Is that a serious detriment to our competing on our exports?

Secretary SHULTZ. Not in the world of flexible exchange rates.

Senator PACKWOOD. Why?

Secretary SHULTZ. Because I believe the export subsidy question, as I said in my testimony, needs to be worked on so that we can get some multilateral agreements on what we mean by an export subsidy and what we do not mean, and so on. But I think that the problem is less serious when exchange rates can take account of particular efforts that may be made by a country to affect its flow of trade. In other words, an export subsidy in a sense, can be defined as a partial devaluation, that is what it amounts to. It affects only certain products and it affects only one side of trade, affects every export-import trade but it has that general effect. When we had a system of fixed exchange rates, particularly from our point of view, where everybody could sort of operate against us, which was the situation we were enduring for low these many years, then it constituted a great problem. But I think now, while it is still a problem that needs very much to be worked on, it is a lesser one.

Senator PACKWOOD. Do you expect we are going to stick with the flexible rates for an extended period of time?

Secretary SHULTZ. Yes.

Senator PACKWOOD. I have no other questions, Mr. Chairman.

The CHAIRMAN. Senator Byrd.

Senator BYRD. Thank you, Mr. Chairman.

PROBLEMS IN THE SHOE INDUSTRY

The shoe industry provides a great many jobs in many States, it provides a lot of jobs in Virginia, and I want to ask three or four questions in this regard. I have got for myself and for my colleague from Rhode Island, Senator Pastore.

Mr. Flanigan, over 3 years ago the Tariff Commission submitted to the President a split decision in the escape clause investigation covering nonrubber footwear which the President himself had initiated. As I understand it, that was the first and only time to date that a President of the United States has asked for such an escape clause investigation. Is my understanding correct?

Mr. FLANIGAN. I do not know whether that was the only occasion in which such had been—Ambassador Eberle says it is correct.

Senator BYRD. It is the only case. Since the tie decision has been submitted to the President there has been no action taken by the White House. Could you tell us what the status of that tie decision is and when the nonrubber footwear industry and the Congress might expect some resolution of the escape matter now before the President?

Mr. FLANIGAN. Senator, the fact is that there was some action taken and some successful action, though not the action that the industry itself wanted under that split decision. At the time the decision was

rendered, the vote was taken, the major source of imports was Italy, and the second major source was Spain. The administration, recognizing the broad economic relations, particularly trade relations, that existed with these countries, undertook to negotiate a voluntary restraint agreement with these countries, and did so successfully with Italy and, I think, if you look at the record in the last couple of years you will find that they have not taken an increasing share of our shoe market.

We also, while having a very significant trade surplus in a broad range of goods with Spain, only partly offset by their surplus resulting from shoes, did discuss with the Spanish this problem. We did not get a voluntary restraint agreement but we have found, again if you look, that within the last year imports from Spain have leveled off and are no longer increasing as a percent of our market from a volume point of view.

There were, however, two new entrants into the market, Brazil and Argentina. Both have been very, very small. I think Brazil is just 2 or 3 percent of the market, and Argentina less than 1.

The Treasury is conducting an investigation of the matter to see what the facts are, and that investigation is currently being pursued.

But I would suggest that the two major exporters to the United States have leveled off in their growth and they are no longer increasing their percentage of the market. The others that the Treasury is investigating are currently a very small percent of the market.

Senator BYRD. The Treasury is investigating under the countervailing statute, I believe.

Mr. FLANIGAN. That is correct, and that, I believe, is the area in question.

Senator BYRD. How does that differ from this escape clause?

Secretary SHULTZ. They are two separate acts. In the countervailing duty situation the question is asked is whether this particular export is receiving a subsidy from the State or a bounty, and if the report is being subsidized then the Treasury may countervail to the extent of the subsidy. That is a different kind of a question.

Senator BYRD. That is a different action from what we were speaking of a moment ago on the escape clause.

Now, Mr. Flanigan, has the escape clause decision—do you feel that has been complied with, is that your testimony?

Mr. FLANIGAN. Well, it was a split decision.

Senator BYRD. It was a tie decision.

Mr. FLANIGAN. As you pointed out, Senator, so I do not think it was a matter of compliance. I think it was a concern and we attacked it in the two major cases through what seemed to us a more appropriate and better method, in the best interests of our exporters and of the international economic community as a whole. If there is a problem with regard to these two remaining areas in which there is a growth, although it is on a very small base, that it is appropriate that it be done on the countervailing duty method basis.

Senator BYRD. Mr. Secretary, could I ask you then, about the status of the countervailing duty? The first petition to the Treasury Department was submitted over a year ago, and the second about 8 months. To date, as I understand it, no action has been taken. I note in the Federal Register that the Treasury Department is proceeding to investigate. Is that the status?

Secretary SHULTZ. Well, the Treasury Department is investigating, although our investigation is not as yet in a formal stage. We are trying to find out in a less than formal way as much as we can about the Spain, Brazil, and Argentina areas, which seem to be the ones involved.

Senator BYRD. A year is a rather substantial period, is it not?

Secretary SHULTZ. Well, we have gotten a fair degree of progress, but not as much as we would like.

Senator BYRD. What progress has been made?

Secretary SHULTZ. We have received, I think, a fair amount of information from Spain and we are in the process of evaluating that. In the case of Argentina, the amount of exports coming to us is really minuscule. It does not seem to be large enough to warrant us moving forward.

In the case of Brazil, we are trying to get a better understanding of their export subsidy practices, and we do not feel we have sufficiently gotten that as yet.

Senator BYRD. Could you indicate as to when action or investigation might be completed and when it might be analyzed?

Secretary SHULTZ. Well, I hesitate to lay down a precise date, although I suspect that one reason why the House put in a 1-year timespan on these matters is in order to prod us along.

Senator BYRD. Well, the year has expired, has it not?

Secretary SHULTZ. Right.

Senator BYRD. Well, may I draw the conclusion from your testimony that expeditious action will be forthcoming?

Secretary SHULTZ. Always, always. [Laughter.] Expeditious as is appropriate under the circumstances. [Laughter.]

Senator BYRD. With the nonrubber footwear industry having lost better than 40 percent of its market to import footwear, do I judge from your testimony that there will or will not be relief in sight?

Secretary SHULTZ. Well, I can speak about countervailing, and to the extent that we find that this 40 percent is supported by subsidies from governments, and I do not believe it is, but to the extent that we find that, then we would countervail.

Senator BYRD. But your investigation does not at this point bear that out?

Secretary SHULTZ. The three countries that we are currently reviewing do not amount to anything like that proportion of the total.

Senator BYRD. There has been some suggestion about the possibility of negotiating an international agreement to limit trade in nonrubber footwear such as the multilateral fiber arrangements recently negotiated in textiles does that seem a feasible action?

Secretary SHULTZ. Ambassador Eberle volunteers to that. He is the expert.

Mr. EBERLE. Senator Byrd, there has not been the same interest as in the textile industry. There are a few countries involved. At this point my judgment would be it would not be practical.

Senator BYRD. It would not be practical.

I have another subject but how much time do I have remaining?

Senator HANSEN. May I yield 2 minutes of my time to Senator Byrd, Mr. Chairman?

Senator BYRD. I thank my colleague from Wyoming.

REPAYMENT OF RUSSIAN DEBT CONTINGENT ON MFN STATUS

Mr. Secretary, on the settlement of the Russian debt, much of that settlement was made conditional on the Soviet Union obtaining most-favored-nation status. That is correct, is it not?

Secretary SHULTZ. We are trying to call that nondiscriminatory treatment status. But with that amendment, that is correct.

Senator BYRD. Whether or not Russia obtains certain concessions, trade concessions, bears on whether or not she has agreed to pay a substantial part of her debt, does it not?

Secretary SCHULTZ. There has been an effort to negotiate an understanding about conditions of trade between the two countries, and one of those conditions is that imports from Russia be treated in the same manner as imports from other countries are treated so far as tariffs are concerned and another portion has to do with the debt. Until we are able to implement the whole agreement, it is not possible to have it totally implemented in each of its parts.

Senator BYRD. So the unconditional part of the debt was that she agreed to pay it was $48 million and 2 percent of the total. The conditional part was $674 million. I wonder who established that condition and why was it done?

Secretary SHULTZ. I think Mr. Flanigan was there and perhaps he can comment on that.

Mr. FLANIGAN. There was an agreement on the part of the Soviets to begin the repayment of their lend-lease debt in the amount that was negotiated. They pointed out that the original lend-lease agreement made repayment conditional on normal trading relations existing between the lender and the borrower, and they interpreted these normal trading relations to be nondiscriminatory trade treatment.

They agreed to begin the payment of the debt, the first tranche, on the assumption that they would get nondiscriminatory trade treatment, but they put a time limit, Senator, on that period after which they would suspend repayment until such nondiscriminatory trade treatment was put into effect. It was that time limit, its expiration, which I do not recall exactly but I think it was about a year, which determined how much would be paid before they would expect as a condition of continued payments nondiscriminatory trade treatment to their goods entering the United States.

Senator BYRD. I think in regard to that agreement, the same as to the other agreements made with Russia in 1972, the United States came out second best by far. I do not want to take more of Senator Hansen's time, but I ask unanimous consent, Mr. Chairman, to insert in the record at this point pages 17, 18, and part of page 19 of the hearing before the Subcommittee on International Finance and Resources of the Finance Committee, October 29, 1973, dealing with the subject.

The CHAIRMAN. Without objection, it will be done.

[The excerpt referred to follows:]

Senator BYRD. May I interrupt at this point? The amount which the Soviet Union owed the United States was $2.6 billion; is that right?

Mr. WEINTRAUB. No, sir. There had been no agreed amount that the Soviet Union owed the United States. This was subject to a negotiating procedure.

Senator BYRD. What the United States claimed the Soviet Union owed the United States was $2.6 billion.

Mr. WEINTRAUB. It was at very early stages of the negotiation process.

Senator BYRD. That is right. But at one point or other the United States contended that the Soviet Union owed the United States $2.6 billion; is that not correct?

Mr. WEINTRAUB. This is true. But the discussions had broken off some 10 years previous to that. The amount we were seeking then was some $800 million.

Senator BYRD. I would like to read into the record at this point a statement which you made in testifying February 18, 1972, before the House Subcommittee on Foreign Operations and Government Information:

"In lend-lease settlement negotiation with our allies, including the Soviet Union, it was our policy to seek payment only for those goods which had usefulness in the civilian economy. After repeated requests for an inventory of these civilian-type articles in the Soviet Union went unanaswered, the United States estimated their value at approximately $2.6 billion."

So I think it is clear from your testimony as well as from other facts that are available that the United States did feel that the Soviet Union, did contend that the Soviet Union owed the United States $2.6 billion.

Mr. WEINTRAUB. I do not contest the statement you just read.

Senator BYRD. Thank you.

Mr. WEINTRAUB. In negotiating repayment agreements with all major lend-lease recipients, the United States has sought no payment for goods lost, consumed, or destroyed during the war or for combat items letf over at the war's end. We have sought payment for civilian-type goods which survived hostilities and for all goods "in the pipeline" but delivered after the lend-lease program formally ended (September 20, 1945).

The Soviet Union had been making regular payments on the "pipeline" account and the remainder due on that account was included in the global sum of the overall settlement.

Negotiations with the Soviet Union to reach agreement on the amount to be paid for civilian-type goods had foundered over the years on two points: First, there was no agreed statistical base on which to base the value of such goods remaining in Soviet hands. The Soviet Union did not present an inventory of what they had and rejected the estimates which had been put forward by our Government. Settlement figures offered by the Soviet Union during the intermittent negotiations were always unacceptably low. This is the point that you just referred to a moment ago, Mr. Chairman.

Second, the Soviet Union wanted the United States to give effect to article VII of the standard lend-lease agreement which stated that the terms and conditions for repayment "shall be such as not to burden commerce between the two countries, but to promote mutually advantageous economic relations between them and the betterment of worldwide economic relations." The article also specially mentioned "agreed action" directed to the "elimination of all forms of discriminatory treatment in international commerce, and to the reduction of tariffs and other trade barriers." The Soviet Union argued that article VII indicated to them the prospect of improved economic relations, but that the United States, in 1951, had terminated the most-favored-nation tariff treatment that the Soviet goods had previously received under a 1937 commercial agreement. Thus, for the Soviets, a resumption of most-favored-nation treatment became a condition for a final lend-lease settlement. We argued that a lend-lease settlement was a condition for even considering most-favored-nation treatment.

The agreement of last October combined a settlement figure close to that which had been requested by the United States previously, and comparable to that reached with other World War II allies.

Senator BYRD. How do you justify that assertion when you just pointed out that in your testimony of February 18, 1972, that the Soviet Union owed $2.6 billion?

Mr. WEINTRAUB. From the first inventory given we thought the Soviet Union owed was $2.6 billion. When the discussion broke up in 1952 the figure that the executive branch was then seeking to get as a result of give and take over the interim years was $800 million.

Senator BYRD. The fact is, it gets back to the original figure of what we claimed was owed to us. And under your own testimony as well as other facts and figures that have been submitted, it is $2.6 billion. Thus, the settlement is nowhere near the amount really owed to us, it is about 30 cents on the dollar.

Mr. WEINTRAUB. I will submit for the record, Mr. Chairman, a publication on the lend-lease settlement of the Soviet Union which compares it with the lend-

lease settlement of the United Kingdom. And the United Kingdom's was typical of some of the other lend-lease settlements—in order to give some indication of what was received on the dollar in the lend-lease.

Senator BYRD. What I am suggesting is, and the point I think the record ought to show, is that the U.S. Government contended that the Soviet Union owed the United States $2.6 billion. And you have testified to that. So I do not think that is a point at issues at all.

Mr. WEINTRAUB. I am not quarreling with that issue.

Senator BYRD. Will you proceed?

Mr. WEINTRAUB. The agreement contained a provision making payment of $674 million of the $722 million conditional upon re-extension of most-favored-nation tariff treatment to Soviet goods. As you know, the administration has requested congressional authorization to extend most-favored-nation treatment to the Soviet Union as part of the Trade Reform Act of 1973.

I might note that the Soviet Union already has paid $36 million of the $48 million payment which is unconditional under the agreement.

For the record, I am submitting an information sheet giving additional details on the terms of the final settlement and a comparison of that agreement with the lend-lease accord with the United Kingdom. And as I stated earlier, for the record, if agreeable, I will submit an information sheet giving additional details on it.

Senator BYRD. It will be inserted in the record.

Mr. WEINTRAUB. I will be very brief on World War I debts.

Senator BYRD. Before we get into World War I debts, let me ask you a moment about this proposed agreement with the Soviet Union. They will pay at least $722 million by July 1, the year 2001. Why would it say at least $722 million? Is that the figure? Why do you use at least $722 million?

Mr. WEINTRAUB. The figure is because the Soviet Union has been allowed to defer any annual payment up to four annual payments, if they find themselves in difficulty in any given year during that period of time.

Senator BYRD. How much is she supposed to pay a year under this agreement?

Mr. WEINTRAUB. I am not sure how their payment schedule works, sir. In order to be able to conclude the $722 million by the year 2001, I would have to make that calculation. I am not sure, sir.

Senator BYRD. What interest rate?

Mr. WEINTRAUB. The interest rate is 3 percent.

Senator BYRD. The interest rate is 3 percent?

Mr. WEINTRAUB. That is correct.

Senator BYRD. The information I have is that they would pay $12 million in October 1972, $24 million in July of 1973, $12 million in July of 1975, and the balance in equal installments of roughly $24 million. The interest rate would be 3 percent, and they would pay the $700 million over a period between now and July 1, the year 2001.

Just one other question in that connection. The agreement that was made by the State Department and the Soviet Union, will that agreement be submitted to the Congress for consideration?

Mr. WEINTRAUB. I do not believe so, sir.

Senator BYRD. Thank you.

Senator BYRD. I thank my dear friend from Wyoming.

The CHAIRMAN. Senator Hansen.

Senator HANSEN. Mr. Chairman, first let me compliment you on the initiative you have taken in calling these hearings and getting some of the legislation that the Congress is considering back into the proper committees. I think, as a member of the Interior Committee, we were going to take over Finance and Commerce and several others, and I agree with what you are doing here this morning.

Mr. Secretary, from time to time, I have viewed with complete approbation your position on wage and price controls and your urging this country to return to a free economy insofar as the restrictions that have been imposed through the Price Stabilization Act is concerned. I understand further you have said so long as it is the law you will do your best to try to make it work, but you believe in the long run

we will be better served if the free play in the marketplace can work uninhibited and unfettered. Is this essentially an accurate statement?

Secretary SHULTZ. Yes, sir.

OIL PRICES AND AVAILABILITY

Senator HANSEN. I note in your testimony you state and I quote:

> Solutions to the energy problem can come about only through the development of new forms of international cooperation.

I recall in the last couple of weeks that Kuwait has been unable to get many bids for oil which it has offered to sell at not less than $11.50 per barrel for crude.

It is my feeling, and I think it comes into focus this week because of the announced intention of the President, to veto the energy bill, that maybe we ought to think more about what the forces in the marketplace would do for our domestic supply here.

Would it be fair to say that given the incentive that presently exists in the market, we may very well anticipate the earlier coming of a viable oil shale operation than would have been the case, or that will be the case if we roll the price back to five and a quarter a barrel?

Secretary SHULTZ. Yes; I certainly agree with that.

Senator HANSEN. I am told by people who have been working out in the Rocky Mountain area in Colorado, Wyoming, and Utah, that if the price of crude could be up somewhere near where it is now, which domestically is around $10 or perhaps a little bit more, that there would be every reason to think that the technology soon could be developed that would within a few years, make a very substantial contribution to our energy supply. Do you share that view?

Secretary SHULTZ. Yes, sir, I do. You hear all kinds of estimates of the cost of bringing in substantial oil shale, for example, or other alternative sources. Some are very low compared with current prices, some are in the neighborhood of them. We tried to figure out what we thought was a long-term supply price for oil in this country, that is a price at which there would be enough supply to clear the market and from domestic sources only and we thought it was probably in the neighborhood of $7. But it is a very difficult thing to estimate and I would not put much reliability on anybody's estimate. It seems to me we are better off to let the market operate and let people make their own judgments about what they think they are willing to invest in. That is the way our system has worked in the past and we have worked through these kinds of problems. And it seems to me that is the way to do it now.

Senator HANSEN. Well, critics of the industry have repeatedly been quick to point out that there are no lines of waiting motorists to be found anywhere in Europe, that only here in America can they be found and that there are some who say the world is awash with oil everywhere except in the United States. Is it not true that in Europe the price of oil and gasoline is substantially higher than it is in the United States. Would it be your feeling that the price mechanism, working as it does there, probably accounts for the fact that there

are not motorists lined up and that the supply has cleared the market? Would you comment on that?

Secretary SHULTZ. Well, where you have a commodity being sold at some price and everybody who wants to get it at that price can get it, then you have got a market clearing price, and so they have market clearing prices in Europe. They are astronomical by our standards. Of course, they include a very large component of excise taxes, and the Europeans, because of these excise taxes, even in times of cheap oil had high prices, mostly for gasoline. They thereby accustomed themselves and made the kind of adjustments that one makes when the price of something is very high, particularly small cars, as an example, and motorcycles and bicycles and so forth. We have suddenly been hit by this rapid change in price and the shift over of people's reactions to that high price to less energy consuming things such as small cars causes us in a way more of a transition than it does them.

I believe the only other country that is having real trouble with lines and rationing and stuff like that is Italy, and they have some of the same efforts to control the price that they do.

TRADE DEFICITS AND RISING IMPORTED OIL PRICES

Senator HANSEN. In your statement you assert that deficits arising from the rising costs of oil imports should not call for action to redress the trade balance. I am not sure I understand exactly what you mean by that statement. How do you anticipate the Europeans and the Japanese will react to their trade deficits caused by oil imports?

Secretary SHULTZ. Well, the problem—I hope that people will react by not sort of overreacting and trying to cure that balance-of-payments problem on the trade account because by definition it cannot be done. That is, you have a situation in which a large flow of added foreign exchange is going to countries that do not want to import to the extent of their exports and so they will just accumulate a large balance, and that means that the world as a whole cannot achieve a trade balance. An individual country may, but if everybody tries to by competitive practices, no one will succeed, and we will just undercut each other. So try to keep the situation in place.

Now, what we are seeing in the exchange markets is a reflection of the uncertainties created by this sudden large amount of money which we know is not just going to stay there in those Arab countries because that would be silly for them to just hold the money. They want to put it out on interest and earn money on it, so it is going to flow back into investments and the question is where is it going to flow? And what those reflows, where they go, will have an impact on the balance of payments of various countries. And after we have seen the situation settle down a little bit both in terms of where the money flows and I believe in terms of the prices coming down and the problem changing itself, then other rearrangements can take place. But in the meantime, I believe it is important to hold the present arrangements.

Senator HANSEN. My time is up. Thank you, Mr. Secretary.

The CHAIRMAN. Senator Ribicoff.

Use of Administration's Retaliatory Authority

Senator Ribicoff. Secretary Shultz, I was pleased to hear your support for the amendment Senator Mondale and I have introduced regarding access to raw materials.

Now, assuming these amendments had been law at the time that the Arab oil embargo was announced, do you believe this authority to retaliate would have been used by this administration?

Secretary Shultz. Well, I think that, first of all, we need, we would envisage, I hope, two additional ingredients. One, is a sense of what are proper rules for behavior for supplying nations, on the one hand, and, on the other, international commitments to discipline those who do not follow the rules. Then, any individual country is in a much stronger position to act.

If we act to retaliate but our effort is futile, that is, it does not have any impact, then it does not get us anywhere other than for us to feel like we tried to do something, but it is frustrating to try to do something and not succeed. You need to have a broader-based arrangement.

Refusal of Countries To Abide by Trade Agreements

Senator Ribicoff. But that is the biggest problem we have right now. You say that you are in a hurry to have this trade bill. Yet, we have seen in the last few months complete disarray in the European community. Each nation has been out for itself. We have seen France acting on its own. We have seen the rest of the European community willing to toss the Netherlands, one of its partners, overboard. When the chips are down the nations of the world have indicated that they will look out for their own interests and not those of the international community.

If this is the case, why do you need a trade bill now if the people you trade with will not live up to their agreements when there is a crunch. Why negotiate?

Secretary Shultz. Well, I thought, recognizing what you have said and the eternal power of selfishness in people's motivations individually and as countries, it seems to me you have to bank on that and arrange your policies to a large degree for that. Granting all that, it was, I think, quite impressive how most countries attending the energy conference here in Washington, which the President called and the Secretary of State managed, joined in calling for a more broad ranging and multilateral approach to the problem. France did not, but other countries did, and I think that that is a good point and something to build on.

And I think that, at the same time, we must remember that in many ways it takes more courage for a country totally dependent on imports for energy to speak up than it does for one like ourselves, which produces 85 percent of our energy right here at home. So while we are discomfitted a great deal, we are not in a position of a country that depends entirely on imports. So I think progress is there.

Senator Ribicoff. We are going to be faced with this same problem with tin, copper, aluminum and many other materials.

Secretary SHULTZ. I hate to see you state that as a fact. It may or may not be. We have an important traumatic development in the oil case. It remains to be seen whether the actions taken by the oil producing countries are in their long run selfish, wealth-maximizing interests, and I think that a case can be made that their actions are not in their own selfish interests. I think in the end we will have to see, in order to go along with a multilateral arrangement of any kind, that is fundamentally in their individual interests in the long run. I hope that this point can be brought out more powerfully, and I think it lies behind the development that Senator Hansen mentioned; namely, the fact that these prices have been coming down in the last month or so.

Senator RIBICOFF. Well, I think this is something that you are going to have to face in this committee and on the floor of the Senate without question. What has happened so far is only a cloud on the horizon.

COMPARATIVE ADVANTAGE

Mr. Flanigan, in your statement you used phrases like fair trade, open markets, comparative advantage, these sound like the old cliches you get in the economic textbooks. Could you tell me which American industry that has a high labor content do you believe has a comparative advantage.

Mr. FLANIGAN. Given our wage levels, Senator, I do not think it is likely that our comparative advantages are likely to be for us in those industries which have a high labor content. But we do have a comparative advantage where either the Lord has blessed us with a fruitful land as in agriculture or our high technology has given us an opportunity to give our people jobs that have a higher wage rate than their counterparts around the world.

Senator RIBICOFF. That is right. But that is not where the crunch is going to come. As Senator Byrd started to say, a large number of employees, happen to be in the industries with the low comparative advantage and high labor content whether it is shoes or textiles or other industries—and this is a main problem we are going to have to be concerned with.

FAIR TRADE

Now, you also talked about fair trade. What are the Europeans and Japanese doing at present that is unfair—and what do you intend doing about it?

Mr. FLANIGAN. As the chairman said, all of us have certain instances in which we fall from the path of virtue, and we can certainly point out to our trading partners, the Japanese or Europeans, where they have fallen from the path of virtue and, as you know, we often have. There are examples, there are instances in the agriculture trade field we have discussed with them at great length over a long period of time.

If the Congress gives us negotiating authority we intend to go to the negotiating table with them and urge that they bring their feet back to the path of virtue and no doubt they will urge the same on us, and

within the context of overall reciprocity we think they and we will be more virtuous as a result.

Senator RIBICOFF. I think the reason there is skepticism in this committee is that over the years—I do not confine it just to this administration—we have found through individual experience that when it came to trade negotiations we were always outpointed, and that our own interests were abdicated. This is one of the problems that I think we are going to have in this trade bill.

GENERALIZED PREFERENCES

Now, Mr. Flanigan, in your excellent international economic report you list as appendix C of the text of the Tokyo Declaration, a declaration signed by the U.S. Government. In it there is stated:

> The developed countries do not expect reciprocity for commitments made by them in the negotiations to reduce or remove tariff and other barriers to the trade of developing countries.

Was there any consultation with the Congress before we locked ourselves into giving these countries trade benefits, and would we not want some concessions from these countries?

Mr. FLANIGAN. Senator, that declaration was by us and the other hundred nations in Tokyo. That sets a goal for the overall negotiations in the GATT, and we did discuss with you and other members of this committee and the Ways and Means Committee a year ago what our purposes were here, they included the proposals for generalized preferences. The purpose of this discussion now is to ask you for authority to negotiate just those kinds of preferences, on a generalized basis for developing countries.

Secretary SHULTZ. Ambassador Eberle would like to add a word on that.

Mr. EBERLE. Two points here: First of all, a generalized preference scheme is really what we are focusing on here because you will notice it refers to the tariffs and we do expect them to have equal obligations under the rules of trade but only allow them to increase their foreign exchange, and those provisions are subject to congressional review. So I think there is the kind of cooperation that we, in forming the general approach, and then bring it back and try to work it out.

LIST OF IMPORTS FROM LESS DEVELOPED COUNTRIES

Senator RIBICOFF. Mr. Flanigan, would you provide the committee wtih a list of what products and in what quantities and volume such less developed countries as Brazil, Mexico, Singapore, Taiwan, and Korea, sent to the United States last year?

I think among other things you will find a lot of refrigerator and automobile parts from Brazil, for example.

Mr. FLANIGAN. I am surprised to hear there were a lot of automobiles from Brazil but I will, Senator, provide that list.

Senator RIBICOFF. My time is up.

[The information referred to follows:]

U.S. imports of major commodities from Brazil, 1973

Commodity	Millions
Imports from Brazil, total	$1,183
Beef and veal, canned or otherwise prepared	80
Fish	80
Coffee, green	363
Coffee extracts and concentrates	45
Cocoa	36
Sugar	96
Other food, beverages, and tobacco	90
Wood, shaped or simply worked	27
Iron ores and concentrates	80
Other crude materials	34
Castor oil	33
Organic chemicals	17
Radios and TV sets	16
Television apparatus, except receiving sets and cameras	12
Other electrical apparatus	12
Automotive parts and chassis	5
Wood manufactures	12
Iron and steel	33
Clothing	22
Textiles, other	27
Footwear	33
Other manufactures	32
Other imports	33

Source: Prepared by the International Trade Analysis Staff, International Economic Policy and Research, Mar. 12, 1974.

U.S. imports of major commodities from Mexico, 1973

Commodity	Millions
Imports from Mexico, total	$2,287
Cattle, live	103
Fish	128
Beef and veal, fresh or frozen	52
Tomatoes, fresh or frozen	115
Other fruits, nuts, and vegetables	144
Coffee	122
Sugar	100
Other food, beverages, and tobacco	84
Crude fertilizers and minerals	48
Silver ores, concentrates, and scrap	28
Other crude materials	53
Chemicals	41
Office machines and parts	57
Electron tubes and parts	101
Television apparatus, except receiving sets and cameras	124
Other electrical apparatus	168
Passenger cars and other motor vehicles	18
Automotive parts and chassis	28
Wood manufactures	31
Iron and steel-mill products	24
Silver, unwrought	122
Copper	16
Clothing	99
Textiles, other	58
Toys, games, and sporting goods	26
Other manufactures	267
Other imports	121

U.S. imports of major commodities from Korea, 1973

Commodity	Millions
Imports from Korea, total	971
Food, beverages, and tobacco	25
Office machines	18
Radios and TV sets	88
Electron tubes and parts	85
Other electrical apparatus	17
Plywood	166
Iron and steel	72
Clothing	245
Textiles, other	20
Handbags	16
Footwear	61
Toys, games, and sporting goods	19
Sound recorders	28
Wigs	61
Other manufactures	87
Other imports	13

U.S. imports of major commodities from Singapore, 1973

Commodity	Millions
Imports from Singapore, total	$459
Rubber	28
Electric power machinery and parts	9
Electric appliances for making electric circuits	18
Radios and TV sets	31
Electron tubes and parts	149
Television apparatus, except receiving sets and cameras	17
Other electrical apparatus	44
Clothing	82
Other manufactures	45
Other imports	46

U.S. imports of major commodities from Taiwan, 1973

Commodity	Millions
Imports from Taiwan, total	$1,772
Fish	25
Fruits, nuts, and vegetables	46
Wire and cable, electrical	29
Radio and TV sets	300
Electron tubes and parts	62
Television apparatus, except receiving sets and cameras	67
Other electrical apparatus	60
Bicycles and parts	33
Plywood	83
Other wood manufactures	37
Iron and steel-mill products	19
Household equipment of base metals	20
Furniture	24
Handbags	28
Clothing	305
Textiles, other	25
Footwear	148
Sound recorders	48
Articles of plastic	65
Toys, games, and sporting goods	72
Other manufactures	171
Other imports	21

U.S. IMPORTS OF REFRIGERATION AND AUTOMOTIVE EQUIPMENT FROM SELECTED COUNTRIES, VALUED UNDER $1,000,000 EACH IN 1973

[In thousands of dollars]

Country	Domestic electric refrigerators	Other refrigerators, refrigeration equipment, and parts	Automotive chassis and parts	Passenger cars	Trucks
Mexico	2	391	(1)	(1)	2½
Brazil	399	172	(1)	24	6
Korea	(2)	10	184	4	(1)
Singapore	(2)	(2)	60	(1)	(2)
Taiwan	(2)	144	821	46	(2)

[1] Values over $1,000,000 included in attached country tabulations of major commodity imports.
[2] None.

The CHAIRMAN. Senator Fannin.

Senator FANNIN. Thank you, Mr. Chairman. I certainly commend you for having these hearings. Mr. Secretary, and Mr. Flanigan and Mr Ambassador, I certainly agree we do need the right type of a trade reform bill, Mr. Secretary, if you start with the premise that you are right, and I certainly commend you for feeling that you are, we can easily reach unanimity if we start with that premise, but I think we are all prone to look at these matters and look at legislation from the standpoint of our own experiences and personal observations.

JAPAN AND GATT

I have people coming into my office and they are talking about shortages. Newsprint is in short supply; we are short of waste paper; the Japanese are outbidding us, they say, and cotton the same; the Japanese are outbidding us. Minerals and lumber are the same. Of course, we know in the Middle East the companies were saying, the Arab countries were saying, "If you do not bid our products, our crude, the Japanese will," and they are paying a good price for it. Can we be specific how will this affect our trading with Japan?

Secretary SHULTZ. Well, this passage of this bill is essential to the conduct of the GATT negotiations that have been referred to here. Japan is a party to those negotiations, and in the process of working through them reasonably well have mutual concessions of one kind or another and they will help in our relationships there.

Now, I should emphasize that trade arrangements are not the whole story, by any means. The operation of the monetary system plays an important part as well in what turns out to be our balance of trade and payments with any given country and with the world as a whole.

Senator FANNIN. Mr. Secretary, a couple of years ago I happened to have the privilege of being with some of the Members of Congress when we were talking with the Japanese in Tokyo. We had them all around the table—the businessmen and officials and all—and we asked if they were willing to cooperate in correcting some of the inequity in GATT and they were insulted. They said, "We like it as it is." And I think they are emphatic in that condition and they will not change. If you have different feelings, I would like to hear it.

Secretary SHULTZ. They were the host in the opening meeting taking place in Tokyo and they seemed to be pleased with being in that posture

and they signed that declaration. I think they have come to recognize that the extraordinary surpluses that they were running up were causing great difficulty elsewhere and would eventually cause them great difficulty because people could not and would not sustain them. Furthermore, I would like to believe that it is gradually dawning on people everywhere, here, in Japan and everywhere, that exports in and of themselves are not desirable. They are only desirable to give us the means to pay for the imports that we feel we want to have. There is nothing to be said for just exporting just for the sake of exporting and when that sinks in, and I know that the world has over the centuries gone through fluctuating opinions about this, the Japanese themselves may think that things could be better.

Senator FANNIN. Well, they do not seem to have reached that conclusion with the tremendous exports now that we are taking from their country, and how they are certainly limiting imports to their country where it is labor oriented. But I would like to go on with this because——

Secretary SHULTZ. There have been some changes. There is a lot to go.

Senator FANNIN. I realize some.

Secretary SHULTZ. Ambassador Eberle spent half of his life the last few years over there negotiating and has made some headway.

Senator FANNIN. I talked to him a great deal about that.

Now, with regard to your comments on countervailing duties because this applies to Japan——

Secretary SHULTZ. Could I make an additional observation? Mr. Flanigan has pointed out to me that our exports to Japan in 1972 were $5 billion. In 1973, they were $8.4 billion. Imports from Japan were $9.1 billion in 1972, $9.7 billion in 1973. So our trade deficit, this is just the trade account with Japan, declined from a $4.1 billion deficit to a $1.3 billion deficit. Quite a lot of change.

COUNTERVAILING DUTY LAW

Senator FANNIN. I realize most of the raw materials and non-labor-oriented products and the labor-oriented products come this way; the non-labor-oriented products go the other way.

But just to get to this question, in regard to your comments on the countervailing duty law, it is my undertsanding that your department interprets this statute in such a manner that relief for domestic producers is practically nonexistent. Now, if we specifically say in the new law that you do not have to enforce the law for 4 more years, how do we protect a domestic producer from an unfair trade practice for the next 5 or 6 years?

Secretary SHULTZ. I do not read the law that way. In fact, we consider it our duty to enforce the law as we see it in any case. The provision in the House permits the Secretary to forego countervailing if that action would in and of itself materially disrupt the multinational negotiations that we hope will go on.

Now, there may be instances where such a disruption might be threatened, but that is not necessarily all the cases by any means.

Senator FANNIN. I have great confidence in you, Mr. Secretary, but given the mandatory nature of this provision, why should the Secre-

tary of the Treasury be given discretion for a period of 4 years in which to waive the imposition of countervailing duties in situations where they would otherwse be required to be imposed? Although reference is made to the impairment of multilateral trade negotiations, why should any country which subsidizes its exports have a right to take offense at the imposition of countervailing duties when such subsidized products are imported into the United States?

I know you covered that previously but I really am concerned about the trend that has existed in what is provided in this legislation.

Secretary SHULTZ. Well, the reason for that provision, why the House seemed to think it was a good idea, is the recognition that this term export subsidy is a very tricky far-reaching potential term and nobody has sat down internationally, let alone here, and tried to figure out what exactly it is, and which, for example, our own practices might be considered an export subsidy. Since we subsidize many products—for instance, our agricultural community, many segments of it are heavily subsidized by the Government, we have an Ex-Im Bank, and there are many ways in which we subsidize things and others subsidize things, and it is a big structure, now we ought to try to straighten it out before we start giving up on that and just stand around swatting each other. That is the reason for trying to do it this way.

Senator FANNIN. Mr. Secretary, we are subsidized for our benefit, they are subsidized against our benefit. That is my contention. Here we are, they are subsidizing——

Secretary SHULTZ. I do not follow that, Senator.

Senator FANNIN. We are subsidizing agricultural products that they need very badly, and raw materials, things that they need very badly, cotton and all, but what are they doing but subsidizing and costing us hundreds of thousands of jobs by their exports from their country into our country of electronic equipment, of automobiles, 3½ percent tariff. If we could build a car and be competitive we could get it into their country perhaps when you get it all down with the weights and horsepower maybe 35, 40, 50 percent tariff or nontariff barriers and so that is what I am talking about, and I just think that it is wrong.

LACK OF JUDICIAL REVIEW FOR NEGATIVE DETERMINATIONS OF ANTIDUMPING

But we will go on. Although specific provision is made for judicial review of negative countervailing duty determinations, under this bill no such provision is made for negative determinations of antidumping by the Secretary of the Treasury. Under existing law judicial review can only be had after the Secretary makes an affirmative finding of bounty or grant and levies countervailing duties, this over 10 years ago by a court which actually has no jurisdiction of customs.

Would it not be unreasonable to include in the bill a brief provision for judicial review of negative antidumping determinations by the Secretary of the Treasury?

Secretary SHULTZ. Well, I think we could turn the Treasury over to the courts if you want to.

Senator FANNIN. No.

Secretary SHULTZ. I do not know why we need a Secretary if the courts are going to review everything he does positively, negatively, whether he gets in on time in the morning.

Senator FANNIN. Well, I said, I am going in the opposite direction to what you are saying. I want to go, I am not trying to——

Mr. FLANIGAN. You said would it not be unreasonable?

Senator FANNIN. Would it not be unreasonable to include in the bill a specific provision for judicial review of negative antidumping determinations by the Secretary of the Treasury?

Secretary SHULTZ. You are against court review?

Senator FANNIN. No; I am saying it should be dealt with on the basis of beneficial circumstances, not just trying to place a barrier.

Secretary SHULTZ. Yes; well, I thought you were in favor of it, but you said not be unreasonable and Mr. Flanigan to think the reverse that is why I asked.

Senator FANNIN. I think you are twisting a statement that I do not think I intended to make.

I have one for Mr. Flanigan.

Secretary SHULTZ. Our experts think the courts have that authority now, although we try not to let that be too widely known. [Laughter.]

Senator FANNIN. I will go more specifically with you.

PROGRESS IN THE AREA OF MONETARY REFORM

But, Mr. Flanigan, I agree with the statement in your testimony that reform of the economic system must take place in all its related areas—monetary, investment, and trade.

Could you tell us what progress, if any, is being made in the area of monetary reform?

If I do not have time for the answer——

The CHAIRMAN. Go ahead and answer it.

Secretary SHULTZ. I think it is my question. It would take a long time but if you are ready to go on that I would be ready to tackle it.

Senator FANNIN. Could it be adjusted so I will not be guilty of taking too much overtime?

Secretary SHULTZ. Well, we have been at this process for a long time. As you know, we had a system in place going back to World War II, which I believe it is fair to say gradually became out of date and efforts were made in one way or another to patch it up by capital controls programs, by various means of tying our exports and one thing and another like that.

Many of our problems that seemed to be related to trade practices, I believe, were really related to the fact that the exchange value of the dollar got out of kilter because of the fixed position that it was in. In any case, the situation came to the point by the middle of 1971, where the claims on our reserves were so large in relation to the reserves that when people started to want to cash in there was obviously no way for us to sustain that, and the President then closed the gold window. And that was a very constructive step to take, and it opened up a process which has moved us toward a very different kind of monetary system.

Now, we had a long period in which the administration was heavily criticized because we spent, Secretary Connally spent, his time, telling people that the old situation was over, whether it was monetary or

trade or what. And the people around the world had to take a new look, and the United States was not going to be the patsy that it had been. And there was not much point in trying to do something constructive until that message sank in. And I think it did sink in. And we have since then tried to play a very constructive role in putting forward ideas about a monetary reform system. At the same time, as negotiations were going on in this committee of 20 that was established by the International Monetary Fund, we have also had an emerging reality, which we have paid at least as much attention to, and that emerging reality is now to all intents and purposes, a system of floating exchange rates with a uniformly understood pattern of ad hoc intervention in order to maintain orderly markets.

Now, we think that by the time next July rolls around we will have established more explicitly rules for floating, rules for behavior when you are employing, a better description of the adjustment process, alining IMF so that it will be better able to take this emerging system from the reality and from the negotiations and turn it into genuine long-term monetary reform. But, in the meantime, we have a new and more flexible system that I think has been serving us and the world well. Our currency is valued more appropriately than it was before. And I think that in response to some of these questions about our comparative advantage that we have this morning—our comparative advantage has changed drastically in some industries as many will tell you as a result of the exchange rate rearrangements, and our balance of trade has changed drastically as a result of the exchange rate rearrangements.

It is also true that, in my opinion anyway, that this flexible system has served us well in this massive set of energy developments. Here we had an event that took place in a very short space of time that caused tremendous rearrangements, the flows of money and trade, and the one crisis you did not read about was the crisis in the monetary system. The monetary system has accommodated all of this. Exchange rate relationships changed a lot in response to what people thought was an emerging reality, but the system accommodated itself and we did not have these big crises of people being shut down and the central banks closing and so forth, that we had in the past. So I think this notion of greater flexibility, not that what we have is a final satisfactory solution by any means, but it is an improvement.

Now that is a short answer to a question that is really a very big question, but I think a very important one for your consideration of this trade bill because you must see monetary, trade, and for that matter, aid and investment, and military flows, all of these things are what move together to make up our balance of payments. They are all related to each other.

Senator FANNIN. Thank you, Mr. Secretary.

The CHAIRMAN. Senator Curtis.

ALLEGED FOOD CRISIS

Senator CURTIS. Mr. Chairman, thank you.

In your statement you referred to the recent oil and food crisis. With reference to oil, you are referring to the shortages, the lines at the filling stations, the shortages of products made from oil, such as fertilizer, the necessity for having stations close on Sundays, closed

certain other hours, the reduction of the speed limit of trucks, which has reduced their capacity to haul goods by about 30 percent, but I am puzzled about the statement on the food crisis.

Has the Government had to ask food markets to close because they could not take care of demands of consumers? Have there been lines? Have there been shortages of nutritious food of high quality in this country?

Mr. FLANIGAN. Senator, as you know, perhaps, there have been shortages of certain kinds of foods—I think that can be read more in the international context where there were some countries who were importers both of oil and foodstuffs. Particularly in developing countries the increase in prices has been for some of them a crisis. But certainly there has been a significant difference in the two developments so far as the United States is concerned.

Senator CURTIS. Well, reading that it says, "The United States with its comparative advantages, has clearly much to gain by reliance on the market in the trade area. Given the recent oil and food crises, our trade negotiations take on greater importance."

And I think that we need to have the record very clear here in reference to the food situation. There has been no crisis. The American housewife can go to the market and buy and get the widest selection of foods that they have ever had.

Mr. FLANIGAN. Some of your colleagues, Senator, would——

Senator CURTIS. And there has been no threat or demand for rationing or for steps comparable to turning the thermostat down to an uncomfortable level.

Mr. FLANIGAN. Some of your colleagues, Senator, would express crisis concern about prices, although I think the operative thought in that passage is the need to keep trading relations open even though some people have pressed for some limitations of exports of foodstuffs. We believe that would not be in the best interests of the United States.

Senator CURTIS. Now, the thing currently talked about is an embargo on wheat.

Mr. FLANIGAN. Not by us, as you know, Senator.

Senator CURTIS. Beg pardon?

Mr. FLANIGAN. Not talked about by us, as you know.

Senator CURTIS. But by people in this country.

Mr. FLANIGAN. That is right.

Senator CURTIS. Now, as a matter of fact, the Secretary of Agriculture has pointed out that there is 7 cents worth of wheat in a loaf of bread. Bread sells for 45, 47 cents, and the implied demand is that the Government ought to do something about it. I am sure that none of these people agitating anything in this regard is willing to lower any of the costs on any of the other products or any of the factors that go into the cost of bread.

Some of the processors of wheat in this country join in the demand for embargoes or Government storage and so on. They are unmindful of the fact that we do not supply all of our foreign customers and then they get what is left. They can go in and buy in advance. They are used to an economy where the Federal Government was the warehouseman and the investor in the inventory to assure them the ability to buy agricultural products at a low price, and that has been the situation for 30 years.

I think that then on page 2 there is a further reference to the dramatic price increase in agricultural products. Would you elaborate on that a little bit, what you were referring to there.

Mr. FLANIGAN. Yes, sir.

Secretary SHULTZ. Mr. Chairman, could I interject a light note?

Senator CURTIS. My notes are not heavy. [Laughter.]

Secretary SHULTZ. Don Rumsfeld, when he was Director of the Cost of Living Council, we had a month along in there when the price of food did not go up very much and he went back and he explained it all to his wife, what had happened, the statistics, and she said to him—he told this story in public—she said, "Don, do me a favor, will you?" He said, "What is that?" She said, "Never say that in public, nobody will believe you." And I think most of the ladies think food prices have gone up quite a little, is my impression.

Senator CURTIS. This does not say anything about food, this says agricultural prices. You see, farmers do not sell beef, farmers sell cattle, and the average feeder in my State, the last 6 or 7 months, has taken a loss of about $150 to $200 per head in his feeding operations. A local banker called me last week and mentioned one farmer who had to—to pay his losses in cattle feed—is going to have to sell considerable land.

I do not blame the executive agencies for this. I think we have a political custom in this country to demagogue about food prices. I do not know how we can expect an economy to exist where wages go up, taxes go up, the price of automobiles goes up, the price, the level moves forward, but it remains static for food. Percentagewise this country pays less of their earned income for food than any other country in the world.

I realize that what I am saying here is not a direct question to be answered but I would not feel that I would be justified in, at the opening of these trade discussions here, to make a point of these things. We have the first decent agricultural prices in probably 50 years in this country in spite of the fact that the cattle situation, and it was largely, the cattle dislocation was largely, caused by the price ceiling placed on it. When the ceiling was on beef, choice steers were selling for about $57 a hundred. They took the ceiling off and they dropped down to about $37, which is where they took their tremendous loss. It did not serve the consumer, it did not serve anybody else.

Mr. FLANIGAN. Well, Senator, without debating the quality of the current prices of food, but just in the interests of defending my statement, having soybeans go from $2.50 to $7, and wheat from $1.50 to $6, and corn going up substantially also, that is just a dramatic price rise. Whether the beginning price or the end price is the right one is irrelevant. The fact is it is a dramatic increase in price.

Senator CURTIS. What I want to know is, is that bad?

Mr. FLANIGAN. That is an entirely different subject and I think if you read the rest of my statement I paid considerable deference to the market and I think that the market should act as well in the agricultural field.

Senator CURTIS. Very well. That is what we want. We do not want any embaro on wheat. We think the embargo on soybeans was a mistake. We know that the ceiling price on beef was disastrous, it was disastrous. It caused dislocations that we have not recovered from since.

But I think you would agree that from the standpoint of scarcities and waiting lines and inability to get what you want, there has been no food crisis, is that not right, from that standpoint?

Mr. FLANIGAN. From that standpoint there have been no waiting lines at the food counters.

Senator CURTIS. I also was quite impressed by the reference of subsidies to agricultural exports. I suppose there are a few 480 sales made now largely to the underdeveloped countries, but as much as 18 months ago agriculture was taking about 4 percent of the Federal budget. In the upcoming fiscal year it is going to be less than 1 percent and that includes a great many consumer services such as inspection and matters of that kind.

DEFINITION OF RAW MATERIAL

Could I ask one short question, you can put the answer in the record if you want to. Mr. Flanigan, in your statement you referred to the worlds raw materials. You do not need to enumerate them all but what is your definition of a raw material?

Mr. FLANIGAN. My copy is not your copy. Would you read the sentence for me, would you?

Senator CURTIS. Do you regard farm commodities as raw materials or are you referring to the minerals, the oil?

Mr. FLANIGAN. Is this in reference to limitations on exports?

Senator CURTIS. It says:

> In considering legislation directing the President to seek an international agreement assuring equitable access to the world's raw materials——

Mr. FLANIGAN. In that context, I do consider commodities to be a world's raw materials. You do not need to enumerate them all but minerals, et cetera.

Senator CURTIS. All right. Thank you very much.

The CHAIRMAN. Senator Bennett.

NEED FOR TRADE LEGISLATION NOW

Senator BENNETT. Thank you, Mr. Chairman.

I would like to go back to the basic problem that underlies this whole legislation. We have heard discussions today indicating that this is not the time for trade legislation. I am going to make a little speech and then ask if you agree with me.

To me this sounds like the old story of the man who would not fix the roof because when it was raining he could not fix it and when the weather was good he did not need a roof.

Do we need, regardless of the conditions under which we negotiate or legislate, do we need a change in the basic international trading pattern?

Secretary SHULTZ. Yes, sir.

Senator BENNETT. And would it be beneficial if we got it now?

Secretary SHULTZ. Yes, sir.

Senator BENNETT. All right.

Are your problems multiplied by the oil and the wheat and all the rest of them but are those contingencies so great that we should put off trying to solve the underlying problem and wait for the sky to clear again?

Secretary SHULTZ. No; on the contrary, this is one route for which we will help ourselves to solve the other problems.

Senator BENNETT. Is it fair to assume that those problems may be temporary or short run but the question of reorganizing and remodeling the basic international trade relations and bringing them up to date is long run and, therefore, more important.

Secretary SHULTZ. I think that is a very shrewd observation.

Senator BENNETT. So if we persuade ourselves that because of some of these shortrun problems we should not face the basic reforms and changes in pattern that are needed, will we be kidding ourselves?

Secretary SHULTZ. I think so. I would say whether or not some of these other problems turn out to be short run or whether it takes a long time to solve them satisfactorily, we, nevertheless, need this legislation, and we need to attend to put the roof on our house. That is at least, in my judgment, it is going to take us a long time to work our way out of our present energy problems, and become, have the capacity for self-sufficiency in this country. But that, nevertheless, shouldn't prevent us from continuing to work on this trade problem.

Senator BENNETT. Assuming that the problems we face are in part our inheritance from the Bretton Woods Agreement and the immediate postwar period, and assuming that we have been more or less since that time in a period of continuing change which has upset or has changed the relationships that existed then, can we be safe in saying that the longer we wait the more difficult it will be to establish a new and viable pattern based on our modern relationships, and that by putting it off we are making the problem more difficult rather than easier?

Secretary SHULTZ. I think that is a fair statement.

Senator BENNETT. It seems to me that that is important in this context because we can get lost in the question of whether, because of the oil situation and because of the pressures that that has put on some of our trading partners we should ignore the long-term problems and just sit here and wait to do what we have been doing for 30 years, trying to put out fires from one year to the other.

Now it looks to me as though on the, in the international monetary field we have tried to take a step which will set a new modern pattern to replace the old Bretton Woods pattern and haven't we reached a time when we should try to do that in the trading field?

Secretary SHULTZ. I think so, and I think that is a widely shared view around the world and accounts for the general good atmosphere at the time of the Tokyo declaration and, as the preparatory work has been getting underway in Geneva, I understand that that is basically been going along well.

Senator BENNETT. Well, to put the question specifically: Will our trading partners approach this thing with a realization that it is more important to them to deal with the long-range thing or will they be unwilling to deal objectively with the long-range problems in order to try to get some temporary advantage out of the present situation?

Secretary SHULTZ. Well, I suppose that everybody will be trying to look after his own interest, and will be looking for whatever temporary advantage can be gotten. But I hope that, through the process of discussion, we can identify in everybody's mind why we need to take steps

that are to the mutual advantage of all, and thereby agree to a set of rules that do get us to that objective.

Senator BENNETT. I will ask that question in greater detail of Mr. Eberle when I am allowed a shot at him.

Secretary SHULTZ. Help yourself. [Laughter.]

Senator BENNETT. I have to obey the chairman's rules and set an example for my other colleagues on this side of the aisle.

NONTARIFF BARRIERS

There is, of course, as we all know, a variety of nontariff barriers that we are involved with. Could you identify for the committee, not necessarily now, but for the record, those nontariff barriers which you think you can handle on the basis of the authority you now have and those for which you must have additional legislative authority.

Secretary SHULTZ. The way we are now situated it is very difficult for us to participate in these negotiations at all because we have no authority, so we are seeking authority that will allow us to get at these matters, and we will submit a list of items for the record.

But I think, I was quite impressed with, I think it is appendix C or B in here, in your staff report just showing the growth of nontariff barriers, and identifying the nature of them. Quite an educational writeup.

Senator BENNETT. Could title I of this bill be used in such a way as to eliminate congressional review with respect to the reduction or elimination of important U.S. nontariff barriers. Are there some that would be subject to the congressional veto procedure and some that would not be subject to congressional veto procedure? Maybe that is the distinction I would like to have.

Secretary SHULTZ. Yes. The answer is "Yes" but, perhaps Ambassador Eberle can describe it. It depends on what the law underlying the activity in the United States.

Senator BENNETT. Thank you. Can you identify the page?

Mr. EBERLE. In your blue book it happens to be page 13. But there are two different approaches here. The first is if there is no domestic law to be changed then the Executive could if they had under today's authority as Executive, the President, could go ahead and negotiate that.

However, the bill provides, and I want to correct my two comments here, that we will consult with Congress on any of these to bring back to you before we bring them in here even if we do not have to ask for a change of law, so we would expect we would bring these back in any event.

Senator BENNETT. So with respect to any nontariff barrier problem you would expect to consult with Congress and inform us of your activities even though you are not required by the law to go through the veto procedure.

Mr. EBERLE. That is correct.

Senator BENNETT. I have no further questions, Mr. Chairman.

Conditional Most-Favored-Nation Treatment Needed

The Chairman. I have been concerned about the kind of trade policy this country has been pursuing whereby we do much for others and request almost nothing in return. I have never understood that kind of domestic or international politics.

For 123 years we operated on the basis that most-favored-nation treatment was not something we automatically gave away. If a country was discriminating against us we didn't give it the same kind of treatment that we gave to people who were treating us fairly. Then some years back this Nation decided to pursue a policy where most-favored-nation treatment would be unconditional. Let me give you an example. At one point the Mexican Government proceeded to take over, to nationalize, our oil investments, and we undertook to try to obtain some compensation. At the very same time we were negotiating an agreement with Venezuela to produce oil. Because most-favored-nation treatment was unconditional we proceeded to give Mexico, which was in the process of confiscating American investments, the same consideration we gave Venezuela which was treating us in the way people should in international affairs.

There is no incentive for people to treat this country fairly if they are going to get the same benefit trading with you when they steal from you, cheat you, discriminate against you, as they do if they treat you fairly.

Why shouldn't we return to a policy of conditional most-favored-nation treatment—something that is conditioned on the other fellow treating us the same way he would like us to treat him?

Secretary Shultz. Well, I think we do ask for authority in this bill, Mr. Chairman, to be able to retaliate on a discriminatory basis against people whom we feel are not playing fair with us. But I do think that the principle as a principle needs basic underpinning for the kind of progress that has been made over a long period of years in world trade arrangements and which has led to a great expansion of trade to everybody's mutual benefit.

Canadian Automobile Agreement

The Chairman. Well, it sounds like we are not very far apart. I just hope when we make a deal with somebody which is supposed to be to our mutual advantage but we don't get out of it what we are supposed to get out of it, we will do something about it. I helped to lead the charge for the Canadian Automobile Agreement. The Canadians just have not done their part. This is one of the big reasons why we find ourselves with this very big deficit in our balance of payments with Canada which has been made worse by the oil crisis. It seems to me when we make a deal and the other fellow does not uphold his end of the bargain, we shouldn't let him have it both ways. We shouldn't let him have all the goodies without accepting the burden of what he agreed to. I hope that we can work together to do something about this and that you will help to bring it about.

Secretary Shultz. Mr. Chairman, on those safeguards in the Canadian auto pact, that is something that I agree with you we should be doing something about, and we are trying to. I think it is also worth reporting that whereas last year, in 1972, I think we had a

deficit in auto trade with Canada on the order of $99 million, this year we have just totaled up the numbers and it comes to a surplus of $360 million. So we are better off this year than we were last year in that sense.

The CHAIRMAN. Well, I know that the Canadian auto agreement is part of our overall deficit with them.

Secretary SHULTZ. Yes, that is true. And then we also have, as they point out to us, a big surplus on our capital account.

FOREIGN OIL AND THE ENERGY CRISIS

The CHAIRMAN. Well now, Mr. Secretary, I don't quarrel with the statement Senator Bennett made about the need of moving on in trade legislation, but I don't think we can ignore the tremendous problems in world trade that this energy crisis is foisting upon this country. I would hope that we could learn from the mistakes that we have made.

Now I, for one, was making speeches as far back as 1959 saying that just because those people in the Near East could produce oil for 15 cents a barrel, didn't mean they are going to sell it for that price. I warned that they were organizing OPEC, the Organization for the Petroleum Exporting Countries, to make us pay everything they could make us pay and to give them the power to do just the kind of things that they are doing now.

While you were Secretary of Treasury you have been moving toward a free trade posture on oil and disposed of the mandatory oil import quota system. I can recall when those countries would come up here, all of them, trying to obtain quotas to bring their oil in to our market. They were willing to make some very nice commitments to anybody who asked them at the time.

I recall during our consideration of the Sugar Act, I suggested we put an amendment in there that if we give them the advantage of having a favored position in the American market they will commit themselves to provide us that sugar if it should prove that the American market is selling at a price below the world market, which is what it is doing right now. Under that provision people who had the quotas would continue to sell us sugar even when the international price was higher than our domestic price, that is even though they could make more money somewhere else.

Secretary SHULTZ. You know more about that than I do. The oil quotas were the other way around.

The CHAIRMAN. It seems to me that if we had made it a condition that Canada would have a favored position in the American market if they agreed to deliver us oil in the event we needed it—we probably could have obtained that commitment from Canada. Of course, once you wait until thing are in short supply then it is too late.

Secretary SHULTZ. Well, we tried, Mr. Chairman, to work out an agreement with Canada. I remember as early, in this administration anyway, as early as 1969 we started trying to do that, so that well preceded this current situation.

I do think that the oil import quota system while based on what is a correct, in my judgment, view that we do have a stake in having the capacity for self-sufficiency in this country, nevertheless could have been changed long ago. I think it has been changed to advantage, from a quota type system to a tariff or fee, registration fee type sys-

tem. And I think it will serve us better in the future to think about it that way, because really what you come down to is price and you have a better method of figuring out what price you are going to insert between the world price and the American price by that method.

The CHAIRMAN. It would seem to me that we will solve this energy crisis a lot quicker when we are able to gain some firm commitment such as this. People have a way of keeping their word and living up to the bargain if they know that we will favor them if they will favor us when we need that fuel. In spite of the oil embargo we are getting about two-thirds of the imports we had been getting in the past. We are also having a chance to see who it is who are not only shipping us what they have been shipping us in the past but shipping more oil at a time when we desperately need it. If we will do business in terms of relying upon the people who have proved reliable, it seems to me we will be a lot further down the road and we won't have nearly as much gap to close if we are only talking about trying to close the gap for 2 or 3 million barrels than if you are talking about trying to close the gap for 6 million barrels. Doesn't that make sense?

Secretary SHULTZ. You are right.

The CHAIRMAN. It seems to me that when we are thinking in terms of about how we go about solving this thing one of the things we should take into account in an emergency supply system. They can produce oil in some of these foreign countries at far less than we can in the United States on the same capital investment. We ought to have arrangements whereby those people agree that if the Near East cuts us off they have standby capacity to ship us more. Right now the way it is working out is that they shift the oil around. According to Time magazine, out of about 1.4 million barrel world shortfall we are having to share 1.1 million barrels in this country. Is it the oil companies that are to blame for that, Mr. Secretary, or is it the administration's program or is it the Congress? Just who is responsible for the loss of a million barrels a day?

Secretary SHULTZ. The Congress. [Laughter.]

Senator HANSEN. It is the right answer.

Secretary SHULTZ. You laughed but I am serious.

The CHAIRMAN. Is it the mandatory allocation law that did it? If so, I want to help amend Mr. Jackson's law. If it is the oil companies then I want to take that into account when that House bill on this excess profits gets in over here. If it is you I want to do something about trying to make you do what you ought to be doing. But will you explain to me why we are losing about a million barrels a day that ought to be coming in here? Do you agree we ought to be getting about a million barrels of imports more than we are getting right now?

Secretary SHULTZ. There are plenty of problems, and so there is plenty of blame and no doubt all the parties that you mentioned deserve some. But I think the evidence is, in my opinion, and what I say I know is just what I think, and probably everybody in the room has a different opinion, but it seems to me the evidence is that despite the embargo we continued to get a lot of oil after the embargo was placed on, which we call leakage and which was very substantial. And then all of a sudden it declined dramatically, our imports.

Now the timing of that decline more or less coincided with the coming into being of the mandatory allocation program which I take it is what you are referring to as Senator Jackson's bill.

Now, that allocation——

The CHAIRMAN. If it wasn't Senator Jackson's bill, who was it? If it were my bill I would just say it is Senator Long's bill and I would try to correct it provided I agreed with you, but go right ahead.

Secretary SHULTZ. Well, I think that there have been some very constructive things accomplished through the allocation program, and I think, on the whole, the strategy that we had of protecting jobs, seeing to it that industry got the feed stocks needed has worked out. In knowing the problems we have we shouldn't overlook the problem that we don't have and which we managed to solve.

But the allocation system at the level of crude, which Bill Simon at the time it was being considered pleaded that it not be put in there, that is the result of saying to a potential importer of crude that "If you import this barrel of oil, which is going to be at the very high end of the total structure of prices since we control our old oil at 5¼ and then you have prices in between, the imported oil is going to be at a high price. It says to the importer, "OK, you import that oil, you are importing it at the high end of this thing. Now as soon as you get it, then it is subject to allocation and if you have as a result of your action more than your share then you are going to have to send it to somebody else so that they have an equal proportion of the total crude available. But you send it to them not at the price you paid for it," and of course if you just did that it is hard to see why you would import it to begin with, "but rather you send it to them at a price that is more like the weighted average price of all the oil you happen to have." So you import oil in effect for one price and then you allocate it to somebody else at a lower price.

Now that creates a situation in which you automatically lose money for every barrel of oil you import. But even worse since there are competitive problems in the industry you not only have to do that for yourself but you have to hand this oil over to a competitor who didn't bother to be an importer but just waited there because of the allocation scheme for you to import to hand to him to make you hand him the lower priced oil. And the effect of that is to say to people that the Government is going to set up a system under which it is not in your self-interest to import oil.

Now, you can pound on people and tell them they are scoundrels, not to operate against their self-interest, and that is what we tend to do these days. We are going to pass a law telling everybody that they are going to have to act against their self-interest, and I am here to tell you it isn't going to work very well.

The CHAIRMAN. If a man on the market goes out and pays $10, which I assume he has to pay if he is going to meet the going world market price—today it is probably more than that—but assuming he can buy oil for $10 a barrel and bring it in here and assuming that he has some domestic production, he has to share these imports with his competitor but he has to sell it to him for $6 a barrel. Is that about the size of it?

Secretary SHULTZ. Whatever the weighted average of it turns out to be, that is about the size of it.

The CHAIRMAN. So he is losing $4 a barrel; he is being made to sell to his competitor.

Secretary SHULTZ. Right, and his competitor is being made better off by that.

The CHAIRMAN. And meanwhile the competitor says, "Why should I buy oil on the world market for $10, when I can buy it from Exxon or Shell or Gulf for $6."

Secretary SHULTZ. "I can get the Federal Government to force them to sell it to me for those prices so why should I go and import it at the higher prices." It is not a peculiar thing for anybody to think under the circumstances——

The CHAIRMAN. Can't we find some way to correct that thing? Does it require a change of a law to correct it?

Secretary SHULTZ. It would be desirable to change the law. We have tried to figure out—since it can't be that the Congress really intended this to happen—that there must be some way to work it through, and Bill Simon believes that he has worked out and is putting into effect a way to get around this. But I think that when you see a set of figures going along about the volume of imports and then all of a sudden it cracks down you can't help but ask yourself what is associated in time with that event, and it turns out, I believe, that—well, it is oversimplification but the allocation system seems to be the thing that kindled and produced this problem.

The CHAIRMAN. It seems to me we had enough problems before the Government started lousing the thing up. [Laughter.]

And if it is the Congress we ought to do what we can to correct that.

Those are all the questions I have at this time, if other Senators want to ask any questions.

Well, thank you very much, Mr. Secretary and Mr. Flanigan; we will expect Mr. Eberle back tomorrow to go into details.

[Whereupon, at 12:50 p.m., the committee was adjourned, to reconvene Tuesday, March 5, 1974, at 10 a.m.]

THE TRADE REFORM ACT OF 1973

TUESDAY, MARCH 5, 1974

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to recess, at 10:05 a.m., in room 2221, Dirksen Senate Office Building, Senator Russell B. Long (chairman) presiding.

Present: Senators Long, Talmadge, Hartke, Fulbright, Ribicoff, Byrd, Jr., of Virginia, Gravel, Bentsen, Bennett, Curtis, Fannin, Hansen, Packwood, and Roth.

The CHAIRMAN. This hearing will come to order.

The doorkeeper is instructed to permit as many additional persons as the room can accommodate to come in on a standing room only basis.

This morning we are pleased to have Ambassador William D. Eberle, Special Representative for Trade Negotiations. Ambassador Eberle, we are pleased to welcome you back. Following your statement we will have a few questions for you.

STATEMENT OF AMBASSADOR WILLIAM D. EBERLE, SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS, EXECUTIVE OFFICE OF THE PRESIDENT, ACCOMPANIED BY AMBASSADOR HARALD MALMGREN, DEPUTY SPECIAL REPRESENTATIVE, AND JOHN H. JACKSON, GENERAL COUNSEL AND ACTING DEPUTY SPECIAL REPRESENTATIVE

Mr. EBERLE. Thank you, Mr. Chairman. I was very impressed yesterday with the concerns of this committee over changes in the world economy with particular emphasis on the need for access to supply and over allegations of the United States having being out-negotiated in the past. I think the most important thing that I can say today is that the legislation we are proposing goes to those concerns.

NEED FOR RESHAPING WORLD ECONOMY

The need for improving and reshaping the world economy has been evident for some time. The rapidity of change in world supply and demand circumstances for some key products has recently dramatized the need for change. But the growth of world economic interdependence was already well underway long before the energy crisis broke upon us, and long before problems of tight supply emerged in such variegated products as wheat and scrap metal.

It was evident to this administration in the period from 1969 through the summer of 1971 that drastic action was required to dislodge some of the fixed attitudes and practices of the governments of the world. We believed then the time had come to start a major overhaul of the global economic system, in all of its aspects. Beginning with the international economic measures taken on August 15, 1971, we did develop a new process of discussion internationally, while restructuring our own competitive position and our relations with our major trade and payments partners.

Since then, much has been accomplished. On the monetary front, exchange rates, including the relative U.S. position among them, are now adapting to changing world market circumstances, and no longer standing rigidly against the forces of history. New regularized procedures in the IMF are being established to facilitate coordination of economic policies and especially harmonization of balance-of-payments adjustments.

In the trade field this administration has been hard at work with our trading partners to deal with troublesome problems.

I know how strongly the Senate Finance Committee feels about trade problems, especially where the actions of other nations have been inconsistent with their international obligations and with acceptable concepts of reasonableness and equity. Let me review for you the progress we have made in the last 2 years in solving some of the residual problems of the past, and in moderating or preventing new problems from damaging our trade interests.

Elimination of Restrictions on United States

Some of the restrictions which we have successfully eliminated are the most longstanding barriers against us, such as French, British, and Japanese restrictions existing in some cases for almost three decades. We have also succeeded in eliminating new restrictions as they have come into effect, such as the European Community compensatory taxes on many agricultural products. Negotiations with Japan also have resulted in virtual elimination of that country's unfair incentives for exports. These efforts on our part have demonstrated that the GATT can work if intense efforts are made and good political will is demonstrated among our trading partners.

I can say as the man on the frontlines that these negotiations have not been easy and we have not had all the tools necessary to deal with them, but some of the positive results we have been able to achieve so far have included in the case of France that the United States was able to negotiate, in March and April of 1973, agreements that finally would eliminate the remaining quotas on all but one product. That product is still under discussion. Quotas to be eliminated under the agreement with France affected dried and dehydrated vegetables, canned tomatoes, tomato juice, and canned fruit, except canned pineapple, that is, canned peaches, fruit cocktail, and other canned fruit.

In the case of Great Britain, we recently concluded arduous negotiations on restrictions which were designed to favor Caribbean country exports to the United Kingdom and limiting those of the United States. These negotiations involved extensive consultations by our Government with Caribbean countries, in an effort to avoid actions which might damage their export opportunities. The result has been

that quotas will soon be eliminated on exports to Great Britain of fresh grapefruit, single-strength orange and grapefruit juices, rum, cigars, and frozen or canned grapefruit segments.

Near the end of 1972, the European Community, as a result of exchange rate changes, authorized the imposition of new compensatory taxes on agricultural products to assist the operations of the European Community's Common Agricultural Policy. The action affected some $40 million of U.S. exports. Vigorous efforts by the U.S. Government, both bilaterally and in the GATT, resulted in termination of this barrier to our trade on at least 97 percent of the products which were affected.

In the last 2 or 3 years negotiations with Japan have been intensified. The result has been major quota and license liberalization by Japan. In early 1969, 119 products of the BTN category were under restrictions. Since that time most have been liberalized, leaving 32 items under restriction as of July 1973. However, among the most important items remaining under quota restrictions, we now have an agreement that digital computers and parts will be fully liberalized in 1975 and integrated circuits by 1974. Among the agricultural items remaining under quota restrictions, most of the quotas have been increased substantially in recent years. Japan has also eliminated other import restrictions, reduced tariffs, and has virtually eliminated its export incentives. These actions, and others, by the end of 1973 made a major contribution to the reduction of the imbalance of trade from levels of over $4 billion to about $1.5 billion.

We believe this administration's record in pursuit of our legitimate trade interests is outstanding, and proves that when we do follow sound policy through vigorous negotiations we can create new and better opportunities for American business, farms, and workers.

Employment of EEC

At the moment, as you know, we are intensively engaged in negotiations with the European Community concerning the changes in tariffs and nontariff measures resulting from the enlargement of the European Community to include the United Kingdom, Ireland, and Denmark. The entry of these three countries into the European Community resulted in changes in their tariffs and nontariff measures to bring them into line with the European Community. For the United States there have been both pluses and minuses involved—some British, Irish, and Danish tariffs have come down, while others have risen. Taking all of this into account, however, we believe that adjustments have to be made in our favor to achieve a reasonable settlement. We have been negotiating with a view to obtaining significant trade concessions on selected items of particular value to the United States which might provide a more adequate counterbalance to the adjustments which the European Community has already made. These trade talks between the United States and the European Community have not been easy. Both sides have good arguments to put forward, and the GATT in this case only prescribes that a negotiated solution is needed. The talks have been going on for a year and a half already. However, at this particular moment the issue is under the most intense discussion within the European Community, and between the European Community and the United States, and I am not able to predict the out-

come here, but I am sure we are going to find some solution in the coming weeks.

But these kinds of efforts to deal with some of these residual problems of the past and with particular new problems, are not enough. We are now convinced that the problems of the future will grow in number and size unless we take major international steps to develop an improved trading system and lay the basis for further expansion of world trade.

Bill Provides More Negotiating Authority

I might add here that the trade bill which you are considering has two important aspects. The first is to give authority to deal and negotiate not only in the GATT but in any forum. But equally important it is to give the tools to your negotiator to deal with these problems in the event the negotiations are not as successful as we would hope, and during the time the negotiations go on. This combination is totally interrelated and we must have them if we are to do the job that I think this committee wants done.

In the past as this committee well knows there have been only minor efforts made to deal with nontariff barriers, export aids, agricultural measures which affect trade, and the general rules of the trading game. The problem which remain after several past negotiations are obviously the toughest problems. They are the ones past negotiations could not resolve. We now propose to deal with them. In fact, we believe it is crucial to get at these difficult issues now to prevent growth in their number and effects in the next few years. In pursuing solutions to these complex problems new techniques will be needed to insure improvement in the conditions of doing business in world markets.

The problems of managing international economic adjustment, especially in view of recent supply and price problems and their monetary effects, will not be adequately dealt with by exchange rate adjustments alone. The temptation to other governments to intervene with specific trade measures to take care of this or that section will be great. We must set up a better mechanism for dealing with these problems as they arise, before crises are generated. In that regard it is interesting to note that in the most recent Business Week is the suggestion that had we had a GATT to apply to oil problems in advance many of these problems might not have occurred.

Then, too, we have to face the problems generated by abrupt or severe adjustments in the level of supply in relation to world market demand. This is not only a question of energy, although that has been foremost in the public mind. As we have seen over the last year, world demand changes combined with inflationary problems at home have put extreme pressure on supplies of some commodities and raw materials, both agricultural and industrial. Such problems can be expected to arise from time to time in an economically interdependent world characterized by rapid changes. It is part of the price of economic success that we must constantly alter our own circumstances and adapt to new opportunities. The energy adjustment, in other words, has simply accelerated the forces of change that we were already facing anyway.

We could fight these difficulties with unilateral measures to insulate our economy, but if everyone does this at the same time the collective effect will be severe damage to all of the free world economies. The problems cry out for negotiated, common solutions today.

To deal with these old and new trade problems we need new techniques of negotiation and new powers to manage our own national economic position better in relation to our national interests. This has been recognized by Senators Mondale and Ribicoff, of this committee, in their cosponsored, proposed amendments to the Trade Reform Act concerning short supply problems. In this regard, I note that Senator Chiles has proposed an amendment to the Export Administration Act which bears a resemblance to these same proposals. We believe that these ideas are conceptually sound and we join in the spirit of the proposals made—although in the course of the hearings and in our work with the committee on the bill we will have some detailed changes to suggest to improve the effectiveness of the amendments in the direction of the objectives raised by Senators Mondale, Ribicoff and Chiles.

In the same spirit we have in the executive branch made a number of suggestions for future authorities we believe we need to meet the problems of tomorrow. Many of these are embodied in the version of the Trade Reform Act as it has emerged from the House. We will, however, have some modifications to suggest for your consideration.

New Techniques of Negotiation Seen Needed

We believe, for example, that new techniques of negotiation are needed, and that one of these ought to be negotiation within key sectors. We need to insure that the overall problems of certain key industries and agricultural sectors be covered in an integral manner, relating tariffs, nontariff barriers, Government policies, future world supply, and pace of adjustment considerations. But on the other hand, we cannot conceivably do this for every sector of our economy, nor should we. So while we believe the sector approach may be desirable in some cases, there must be flexibility in the choice of sectors and in the methods used in each. This can best be resolved in consultations between industry, agriculture, and the Congress, and we would like to see more leeway written into the bill to achieve that end. Similarly, if we are to be effective in negotiating with our trading partners, we will need maximum leverage and a high degree of flexibility in applying that leverage. The countervailing duty statute, and regulations under it, have at least recently proven a sound remedy for many unfair practices. But that law, written in 1897, does not give us negotiating leverage, because the use of it is nonnegotiable. We need some degree of discretion in the application of the law if we are to find real, effective long-term solutions in changes of practice by other nations. We hope some further changes in the bill before you can be made, to improve our management of this area at home, while giving us more bargaining flexibility abroad.

These new techniques of negotiations I call for are necessary, but not enough. We also believe there is need for new techniques of consultation and new channels of information at home. We believe, above all else, that there must be a better and more intimate working arrangement with the Congress than has existed in the past in matters of trade, and especially in trade negotiations. We have noted in the chair-

man's, Senator Long's proposal for a more effective liaison and we welcome the opportunity, because fundamentally it is the Congress' constitutional power to regulate commerce with foreign nations.

Close Cooperation With Congress During Negotiations Seen Necessary

But also importantly, we have found that our legislation, our policy formulation and our negotiations have all benefited whenever the dialog with Congress has been close. Accordingly, we have invited the Congress to devise a continuous role for its own participation in the trade negotiations. I might add I can give you personal assurance that we are not about to negotiate with our partners unless we have that close cooperation with Congress, so when we bring back whatever proposals we do bring back there is a full and complete understanding of those proposals. This is necessary if we are to represent the United States fully.

Advise of Industrial, Agricultural, Labor, and Public Interests Needed

The industrial, agricultural, labor, and public interests generally must also be weighed in a more direct manner. There has been repeated criticism that past efforts to use advice from these elements of our economy have been inadequate. We agree, they have been inadequate. On the other hand, the sheer enormity of the task of hearing and weighing advice from every quarter of American life must be recognized. We will need great ingenuity both in the Government and in the private sector to develop a better apparatus for distilling the essence of advice from so many people. We need this committee's understanding in our efforts to build a better consulting apparatus. Such a system is crucial to the results we can hope to achieve for our Nation. The Trade Reform Act provides a basis for a better system, although its provisions need to be adapted slightly to bring other elements of the American economy, especially agriculture, into balance with the weight given industrial consultation.

Momentum Developed for Trade Talks

I hope you recognize, in our efforts to develop new mechanisms and new methods of dealing with our problems at home as well as abroad, that we have tried to follow a realistic, tough, yet sensible approach. We have also developed momentum for trade talks with our trading partners. The Ministers of some 105 nations met in Tokyo in September to launch negotiations, on the basis of a unanimous declaration. It is also interesting to note there are only a little over 80 members of the GATT and yet 60, a little over 60, of those are participating in the 105, so this is a very broad group of countries that have joined together to do a job, and I think it indicates not only that there is general agreement on the need for this discussion, but also that the developing countries themselves recognize that they need to work with us in building a better trading system for the world.

Since the Tokyo meeting, work has gotten underway in Geneva in preparation for the negotiations and to not worry you about this, these preparations are in fact analytical preparations. They look at various alternatives. They are underway and all nations are, in fact, participating in that preparation.

Energy Crisis and Trade Negotiations

In the light of the energy crisis during these preparations, some governments have reexamined whether or not trade negotiations should be pressed forward. Most of them have concluded that there is all the more urgency now and have urged us to move forward with the trade bill in our own preparations.

We ourselves agree with this greater sense of urgency. A rash of unilateral trade and monetary actions in reaction to energy problems could only make the problems of world adjustment, and our own difficulties, much worse. I could not help but note in the morning's paper the European community's commitment to negotiate with some of the Arab countries, and again a list in Business Week of bilateral deals. I would say we still have time because these bilateral deals neither are firm nor have they yet created any problems. One should not speculate on these, but it does point up the urgency for us to have the kind of authority to sit down and negotiate to see if we can keep our actions in a multilateral context and to assure that the United States has credibility at the bargaining table now and not after the fact, as has been the case in the past.

Congressional Action Awaited

The momentum that has been generated internationally stands now to wait upon action by the Senate Finance Committee and the Congress. We have put before you what we believe to be a sound set of proposals—proposals which will help us to manage our own domestic position better in relation to the world, and which will help us to negotiate with our trading partners more effectively, with strength and with flexibility. We intend to devise and utilize new techniques of negotiations, and new techniques of cooperation and consultation with Congress and with the various segments of the American economy. We hope you see our comprehensive approach as a sensible one, leading to greater equity for America in the world and greater economic opportunities for the American citizen.

Overview of the Trade Bill

Let me now turn briefly to an overview of the trade bill rather than go through this long volume of testimony which I would like to file at this time for the record, Mr. Chairman, because I believe you will find a high degree of logical consistency and interdependence in the various parts of this bill.

The broad purpose of the trade bill is twofold, and this is absolutely essential to recognize. It is to enable the United States to participate effectively in the forthcoming multilateral trade negotiations or any other negotiations, such as the World Food Conference or whatever may take place and, at the same time, to better manage

the domestic issues as they arise. If negotiations are not yet successful today, it is because we do not have those tools today. We will seek agreements which will stimulate U.S. economic growth in the context of strengthening our global economic relations through fair and equitable market opportunities and more open and nondiscriminatory world trade.

TITLE I

Title I of the bill contains authorities to conduct the new round of trade negotiations and procedures through which to implement the results. The primary negotiating authorities would extend for a period of 5 years and include reduction or removal of tariffs and nontariff barriers to trade and provisions for increased participation and oversight by the Congress and the public. Let me add here that the comments that this is a great grant of power to the Executive just are not valid. This proposes a joint working relation with Congress, a joint understanding with Congress during the negotiations and then a procedure for congressional oversight and veto, when we come back. If we do not have that kind of participation neither Congress nor the Executive are going to represent the U.S. public well.

To enable us to more effectively manage the trade agreements program, there are also authorities to make adjustments on the trade side to particular inflationary or balance of payments circumstances. As presently drafted, these authorities are the minimum needed to provide credibility for the U.S. negotiators in their attempt to bring about a common realization that international cooperation can work effectively to deal with new as well as old problems. As I have indicated, we have proven that in the last 2 years, we have not had the authority to get at some of these old problems.

TITLES II AND III

Now, turning to titles II and III, the authorities to manage trade problems domestically, I might point out again there are provisions for Congressional oversight. We want Congress directly concerned with these problems and we must have congressional cooperation.

Title II provides for temporary import relief and adjustment assistance which is made more accessible for industries, firms and workers. The tests of injury for import relief are eased. Administration of worker adjustment assistance is streamlined under the Labor Department and its level and scope have been substantially expanded. Under the import relief provisions an order of preference is expressed. Tariffs are preferred to quotas and orderly marketing agreements, which are lowest in preference and incidentally, they are subject to congressional review.

The provisions of Title III generally improve existing authorities to deal with foreign unfair trade practices. Authority is granted, subject to a number of limitations and procedures, to apply duty increases or quantitative limitations in response to unjustifiable—illegal—or unreasonable trade practices by foreign countries. Again, I had to read the morning paper to see the emphasis on this retaliation. I would like to make the point as a negotiator that we do need that right for the world to understand that the executive branch does not have that power, which we do not today. At the same time, we do not expect to use that

power unless we fail to find a way of negotiating international agreements or our trading partners do not live up to their international obligations. No one should fear that we are going to retaliate all by ourselves, because it takes adverse actions by our trading partners. before we would do it.

The authority in this area is extended specifically to include export subsidies to third country markets or to the United States. Any measure imposed under this authority is subject to congressional review. Concerning anti-dumping provisions, time limits and procedural and technical changes have been proposed. Time limits have also been established on countervailing duty procedures. In addition, the countervailing duty provisions would be extended to cover duty-free imports. During the next 4 years, the Secretary of the Treasury can refrain from countervailing if to do so would jeopardize the international negotiations. There are serious problems with this provision, which Secretary Shultz has already spoken to.

Finally, I would note that changes in responses to unfair trade practices involving patent infringement provide for fairer procedures, a greater role by the Tariff Commission, and judicial review.

TITLE IV

Now, turning to title IV of the Trade Reform Act, this authorizes the President, subject to certain conditions to extend nondiscriminatory tariff treatment to imports of certain Communist countries not currently granted equal treatment. This authority is seen as a key element in the development of orderly economic relations with the nonmarket economy countries. As presently drafted, however, U.S. extension of nondiscriminatory tariff treatment, as well as credits and guarantees, may well be precluded. This, in turn, as indicated yesterday, would prevent the October 1972 U.S.-U.S.S.R. commercial agreement and the full settlement of lend-lease obligations from taking effect. The administration is deeply concerned about these constraints, while fully sharing the humanitarian concerns which gave rise to them. We are hopeful that an accommodation can be reached in the language of the statute, thus enabling us to continue building upon mutual East-West interests to achieve a stable and durable peace.

TITLE V

Title V of the bill grants authority to the President to join with other developed countries in the extension of generalized tariff treatment, for a period of 10 years, to eligible imports of beneficiary developing countries. By increasing their access to developed country markets, developing countries can expand export earnings—thus enhancing their economic growth. In addition, the United States can benefit as it is anticipated that a large share of their increased export earnings will return to the United States in the form of additional purchases here. We have put limitations on preferences so that if any eligible exports exceeds $25 million or 50 percent of our market it automatically loses that preference. We have also provided in section 806 and 807 tariff treatment of border industries' exports to the United States that if there is abrupt market disruption, U.S. competitors will be eligible for import relief.

Let me conclude with a fundamental theme which is that international peace cannot be based on just one or another action or negotiation in international relations. The political, security, and economic issues are all intertwined. Indeed, in the present state of a higher than ever degree of economic interdependence, this is more true than ever before. To ensure a stable, prosperous world, we must develop an adaptable but orderly world economic system that minimizes frictions between nations and enhances their common interests. It is a fundamental tenet of our foreign policy that common problems in the world should be dealt with collectively, through negotiated solutions, rather than through escalating conflicts of unilaterally determined national policies and actions. The Trade Reform Act is essential to enable us to complete our efforts to build peace in this troubled world.

I would like to close with the President's words from his message accompanying the trade bill when it was submitted last April. They are even more urgent today:

> This structure of peace cannot be strong * * * unless it encompasses international economic affairs. Our progress toward world peace and stability can be significantly undermined by economic conflicts which breed political tensions and weaken security ties. It is imperative, therefore, that we promptly turn our negotiating efforts to the task of resolving problems in the economic arena.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Eberle. I am going to try to confine myself to 10 minutes and urge other Senators to do likewise in the first round of questions.

TRADE FIGURES—CIF VS. FOB

I will ask that a member of the staff hold up two charts; I also ask that the charts be made a part of the record.*

Mr. Eberle, I discussed with you what I am going to illustrate with the chart.

It seems to me if we are properly to serve the national interest, we need to take a look at these international programs with some sort of a comprehensive set of figures so people can see what the foreign aid program is costing us, what the trade program is costing us, what the military program is costing us. The Government must stop deceiving the American people through statistical games. As it is now we are told that, no, it is not the trade program that is costing us—we are making money on that—it is the AID program. Then you go to the AID people and they say no, it is not the AID program that is costing us, because most of that would have to do with exports—it is the military program. And then you go to the military and they say, "It's not our program that is costing you, it is the other fellow's." By the time you get through, as Senator Symington said one time, you add up a great column of pluses and end up with an enormous minus at the end of the column.

These charts illustrate the difference between the way our balance of trade books are kept and the way they ought to be kept. The charts show the difference between our balance of trade, the way that 90 per-

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See footnote at end of table.

cent of the countries keep their books, and what our balance of trade has been in the way that the books are kept in this country.

I understand how the books are kept here. We have a provision in the Constitution, unknown to a lot of people, which says that this Nation will not discriminate among ports, one port against the other, in the collection of tariffs. In order not to discriminate among ports we levy our tariff based on the value of a commodity in the foreign country. We call that the foreign value. That way it doesn't make any difference whether you bring the article in at New York or New Orleans, the tariff would be the same.

But when you are considering whether you are making money or losing money on your trade that is not how you should be keeping your books; your books ought to reflect whose ship carried this article from Europe or Japan to the United States and the full amount you paid for it. It is just as when a merchant buys something, he puts it on his books what he has invested in that article on his shelf as well as the freight. But our trade figures—these official figures that have been published for so long—don't include the cost of freight.

As though that were not bad enough, the export figures are inflated by including all that stuff we have been giving away since World War II. So the executive branch includes in its export figures the things that they are giving away or the soft loans which nobody ever repays. And so by including the give-aways on the export side and by leaving off the freight on the import side, they wind up with a big plus figure for what should be a minus.

Now, according to the chart which is calculated on a cost, insurance, and freight basis, we have been in deficit every year since 1966, and that adds up to a deficit of $30.9 billion, roughly $31 billion deficit, in our trade accounts. This is the way they should keep these books, by any honest bookkeeping methods.

Now look over at the other chart and you see how those books are kept for the purpose of issuing these quarterly official good news announcements. According to this misleading chart, every year, except the years 1971 and 1972, we made a profit.

The difference is that by adding in something that doesn't belong in there and by taking out something that does belong in there, they can deceive people that we enjoyed a trade surplus, when, in fact, we were in deficit. From 1966 through 1973 these quarterly good news announcements would have you believe we had made a profit of $6 billion, whereas by what I would regard as an honest set of books—kept in the way that 90 percent of other countries keep their books, as well as the International Monetary Fund—we didn't make a $6 billion profit, we lost $30.9 billion, or in round figures, we lost $31 billion.

Now on a liquidity basis, we had a deficit in our balance of payments during those same years of roughly $62 billion, of which half of it is what we lost in trade.

Now, during all that period, with the exception of those 2 years where they admit we lost money, they have been saying that the only bright spot in all this military aid, military troops for Europe, war in Vietnam, and all that—the only bright spot in the whole thing has been the trade picture. So, they said, since we have been making money in trade, we have to do more of what we were doing the way we were doing it.

Well, the fact is we weren't making money, we were losing our shirts in the trade area, too. So we couldn't afford that either.

Now what we need, as I see it, is to start out by putting together a set of books where the American people can look at the AID program, the trade program, the troops to Europe—the whole thing—and see what it really is costing rather than each program assessing its cost over in someone else's basket. As it is now, by the time you get through it looks as though we are making a profit on all of these and, in fact, we are making a great big loss.

Ambassador Eberle, do you agree with the argument that I have been making about that you have no business adding—that is you have no business leaving the freight off your imports—to see with a foreign country?

Mr. EBERLE. Mr. Chairman, as you know, in principle I am in agreement with you and I commend you for your efforts because you probably now know that the Department of Commerce is reporting these numbers both ways, CIF, FOB, as of January of this year. Now there is still a question over Public Law 480 exports, and I am hopeful that those numbers can also be footnoted. But let me assure you not only should those figures be reported in both ways but we from the trade negotiating side have always negotiated on the CIF, your basis, because the only way to support these other programs is to see that we have a positive current accounts balance or a positive basic balance, before deducting these other programs. You must look at them in total.

The CHAIRMAN. I don't see how we are going to get anywhere with these negotiations as long as they keep putting out these good news announcements which deceive the American public. It seems to me as though we ought to drop the FOB thing and put it on a CIF basis so people can see where we actually stand.

I have had the experience of having a member of a Japanese trade delegation come into my office to talk about the situation and he couldn't understand why I was so concerned, and appeared to be a protectionist. He showed me this good news announcement in the New York Times. "Look at all this profit you are making in the foreign trade. Why would you want to do us out of it?

I tried to explain to that person "If we kept our books the same way that you kept yours we would show a great big deficit rather than a big surplus."

I went to a trade conference about 2 years ago in Europe with the EEC, and our own Secretary of State got up, at that time William Rogers, and proceeded to explain to those people that they had to cooperate with us and help us with our big payments deficit because this military expenditure to help defend Europe was causing a huge burden on us and in order to sustain that burden we had to make a big profit in the trade area. He should have been telling them we are losing our shirt in trade as well as in aid, and he should have put our figures on the same basis as their's to prove it. If they had been told, "Here are the honest figures, we are losing money," they might have been more inclined to help us with our aid burden. Some, of course, would not be impressed. The French had already asked us to get out of France and not to come back.

I think Commerce and all the rest ought to stop putting out these fraudulent good news announcements about phony trade surpluses when, in fact, we are losing our shirt and can't keep it up.

If we start out by putting our trade books on a basis where somebody can understand them, we then have a starting point from which you could negotiate and tell these people that we are, in fact, losing a great deal of money. If we would quit deceiving our own people and quit putting out the wrong figures and start putting on the right figures and insisting on those, we could get somewhere negotiating with those people.

Do you think that will help?

Mr. EBERLE. It certainly helps because I have the same problem in negotiating to convince our partners that on that same basis we do have a deficit in our trade accounts. It is very difficult to explain this to them. But I do think the fact that we are publishing it both ways now will be extremely helpful.

I might also add that some of our trading partners have taken a look at this new and decided maybe they should report more along our way so you have two problems on your hands.

The CHAIRMAN. I might say if they want to report it the way the Commerce Department has been reporting they are in for a real nightmare of wandering around in the fog because they will wake up someday and find out what they have been living in a dream world which has no relationship to fact and truth whatever. So that if we really—I would think since we are one of the very few people, one of the very few nations that reports it the strong way we ought to report it the same way the others do. Of course, I was pleased to see the International Monetary Fund, they don't keep these trade figures anyhow, they keep a balance of payments set of figures, so that on that basis we are not deceiving anybody, even ourselves, but unfortunately, while they are deceiving, not we, but while this Government, this administration, has had this bipartisan deception going on directed at the American people, I cannot conclude other than it has done a great deal to prejudice our interests in trying to find and to put into effect the kind of answers toward which you have been directing yourself.

Senator Talmadge.

TOBACCO TARIFF DISCRIMINATION AGAINST THE U.S.

Senator TALMADGE. Thank you, Mr. Chairman.

Mr. Ambassador, as you know, the GATT requires any nation such as those in the European Economic Community when it expanded from six to nine countries last January to negotiate concessions to compensate for losses in third countries.

Currently all tobacco selling above a $1.27 a pound must face a special 15 percent value added tax. This specifically discriminates against American tobacco since it is of a higher quality and therefore higher value than most other tobacco entering the European Community. So far the European Community has not agreed to change their tobacco tariff policy. Is the United States prepared to stand firm on our position that the European Community should eliminate the so-called wrapper leaf tariff which discriminates against exports of high quality American tobacco?

Mr. EBERLE. Senator, that is one of the products that has been of high priority in our negotiations. It is one we recognize as of trade importance, along with a number of others.

As I said in my opening statement, we are in a very sensitive area now of the wrap-up, hopefully, of the Common Market enlargement compensation negotiations, and I would be delighted to brief you in executive session on all the details of it.

Senator TALMADGE. I would appreciate it. As you know, tobacco is very important to my State, and a number of others, and it is one of our principal dollar earners insofar as exports of agricultural commodities is concerned.

Mr. EBERLE. I can assure you it is one of the items which has been right at the top of our list in our discussions.

INDUSTRY REPRESENTATION SEEN NEEDED DURING NEGOTIATIONS

Senator TALMADGE. I want to get into another area that I feel I have some familiarity with. You remember the Trade Act of 1962 provided for representatives of the Ways and Means Committee and also the Finance Committee to be advisers to our trade negotiators. Of course, we had our legislative duties here. Many of us went over there a time or two and rushed back. Consequently, we didn't find out much. We got to eat some very delightful lunches and dinners and attend a few receptions at some of the embassies. That was about the extent of it.

Now while the American business people who had some knowledge of international trade were excluded totally from our negotiations, the Japanese, the Germans, and the French, and the European Economic Community had the best industrial team that was available at the hands of the negotiators day and night to give expert advice.

Don't you think it would be far better rather than having a few politicians from the Ways and Means Committee and Finance Committee who had no expertise in international trade, to have representatives from American industry who were competent to advise you as the negotiations proceed?

Mr. EBERLE. The answer is yes on both counts. And let me say that we have urged that members of Congress find a way to work also directly with us, whether it be through their staffs as part of the team, or as members, and I can assure you that you will be kept fully up to date on our negotiations. It is only a matter of your telling us how you want us to do it. I have a personal commitment to see that that is done.

Senator TALMADGE. I think we ought to be informed, and I will give you an illustration. Of course, being from Georgia I had some interest in textiles, as you might imagine. We could find out virtually nothing as to what was going on in textiles at the negotiating conference, but some of my constituents could call their friends in France and their friends in Germany and their friends in Britain. Their friends were in Geneva being advised every step of the way and advising the negotiators, our adversaries, in the negotiations. It was utterly ridiculous. The other side had the best brains available and our people who have to bear the burden of whatever came out of the negotiations were kept completely in the dark.

Mr. EBERLE. Let me go to the business and agricultural and labor communities now. As I have publicly said on many occasions, we are prepared to have these interests fully represented, and we have already

started by asking industry, agriculture and labor to sit down and tell us how they want to work with us. We started forming advisory groups ahead of the time, because we can't wait for passage of the trade bill. We think it is that important, and we think they ought to continue not only just during large multilateral negotiations but on a regular basis.

Senator TALMADGE. I couldn't agree more, but I would hope when you get down to negotiating you would have the best brains of American industry in Geneva 24 hours a day so when any subject comes up you can get expert advice in the area.

Mr. EBERLE. We are hopeful that can be done and we have also given them a commitment that they can go up to the negotiating door with us and when we come out we will tell them where we stand. They cannot go into the negotiating room but we are prepared to go as far as we can in two-way communication. We want their advice and we are prepared to tell them where we agree or disagree with them, and the same thing goes for the members of the Congress.

There are going to be times, I am sure, when there will be broader interests but everybody is entitled to know this and we are prepared to explain that kind of situation. We are, incidentally, also prepared to review those provisions in this trade bill with you if you feel they are not strong enough as they now read.

The CHAIRMAN. May I interrupt? I would like to applaud both the question and the answer. It seems to me that it is completely unfair that foreign negotiators represent foreign business people, but that the American businessman is not represented by his government to the same extent the other fellow is represented by his government.

Now if they do let their businessmen come inside that room I think you ought to allow our businessmen to come in, too. I think it would be, ought to be, both ways but I think you ought not to keep them out of the room.

Mr. EBERLE. Senator, I hope you have good reports from the textile industry sitting in with us at Geneva last November and December as we worked out the textile agreement.

Senator TALMADGE. I congratulate you. You did a very fine job in that regard but it was utterly inconceivable to me how our negotiators could go to a negotiating table completely unarmed while those they were negotiating with had the best brains by their side day and night to advise them.

NEW PROCEDURES SEEN NEEDED FOR FINDING UNFAIR TRADE PRACTICES

Let me bring up one other matter that I think gives the world some cause for concern. As I recall Napoleon Bonaparte once made the statement about China, "Let the sleeping giant sleep. When he awakens the world will tremble."

Now you recall how the Japanese, with their expertise, their scientific achievement, and their work habits, have sorely disrupted markets primarily in this country but in other countries as well to some degree. Our unfavorable balance of payments with the Japanese, I believe, in 1972 was $4,200 million. I think that was on an FOB basis, not CIF. What is going to happen when the Peoples Republic of China with 800 million hard working people gets geared up to take over any market in the world it wants to.

Mr. EBERLE. We have recognized that there is a problem with such a "sleeping giant" particularly where it is a nonmarket economy and we have special provisions where there can be prompt decision by our Government if an expanding country should elect to segment a U.S. market and try to move in on it and disrupt it.

Senator TALMADGE. We have had provisions like that in previous trade acts and no President had the courage to invoke them, as you know.

Mr. EBERLE. That is why we are providing for an oversight by Congress on some of these provisions.

Senator TALMADGE. Who is going to trigger it, the President?

Mr. EBERLE. First of all, it depends on what the provision is, but the one on the nonmarket economy would be the Tariff Commission through a complaint, and a complaint could be raised by the Congress, could be raised by my office, it could be raised by a company, or by the President.

Senator TALMADGE. I am informed that it is harder to find unfair trade practices on the part of the Communist countries than it is the free world countries, and we haven't been able to find much insofar as free world countries are concerned.

Mr. EBERLE. There are two different parts of the law. You are correct in the anti-dumping countervailing duty provisions. On the other hand, in the escape clause it is a great deal more easy and those are the provisions that we would expect to move under because we simply have an absolute right to move under those.

Senator TALMADGE. Would you have any objections of Congress putting some provisions automatically triggering the law without having to rely on an Executive who heretofore has not been willing to invoke the law?

Mr. EBERLE. We would object, I think, to absolute percentage or quotas at this time because there are many areas in which there are not problems, and many areas in which you do get products in that are reasonable and cause no injury. But we are certainly prepared to work with you where there is an injury, to find ways that you would be satisfied with.

Senator TALMADGE. I would like to put some mechanism in the law where we wouldn't have to rely on an Executive who may not invoke the law. Couldn't we come up with some system? I am not an all out protectionist but, at the same time, I don't want our country's labor force and our own domestic industry destroyed by a flood of foreign imports. It seems to me that with all the brains you have at your disposal and all the brains that the committee has at its disposal we could come up with some device which would automatically trigger the law when some particular peril point was reached.

Mr. EBERLE. Let me put it this way: The Tariff Commission makes a recommendation. We have provided even when there are tie votes such as the shoe case on which the Senator from Connesticut raised questions.

Senator TALMADGE. How many recommendations has the Tariff Commission made in the past 12 years, Mr. Ambassador?

Mr. EBERLE. That is the point I want to get to. We have proposed a change in the law so the Commission does not have to tie injury to previous tariff concessions, and two, that the President must have the

same time limitation in tie votes as he does whether he takes positive or negative action. Now he must report, and if he takes action and imposes import relief, Congress has a veto procedure on that. If he refuses to take import relief he must report to Congress precisely why he didn't do it.

Now I recognize that you have a veto on the one side and you have only the information so that Congress could act on the other. But if there is no provision or no program under which to act we have provided that Congress must get the information if the President refuses to act and, therefore, is able to act on its own once it has that information.

Senator RIBICOFF. May I ask you to yield? I am in the process of drafting an amendment to carry out just what you suggested. I would be pleased to submit it to you and I would hope you could cosponsor it

Senator TALMADGE. Thank you, sir. It seems to me we must do that.

When the staff was briefing us on the House-passed bill the other day it was pointed out that under one provision in the bill importers can complain but the poor fellow who is trying to pay taxes and keep his plant going and give jobs to his employees in the face of these imports can't complain. We can't have that.

I believe my time has expired, Mr. Chairman, and I yield at this point.

CIF vs. FOB

The CHAIRMAN. Senator Bennett.

Senator BENNETT. Thank you very much, Mr. Chairman.

Like all the rest of the committee I have enjoyed the discussion of the difference between CIF and FOB but I would like the record to be very clear that our use of FOB has gone back to the beginning of the time, and if there has been any movement away from it, at least so far as records are concerned, it is this administration that has made this movement, and I wouldn't like the record to indicate that this administration is not responsible for the FOB situation.

The CHAIRMAN. If the Senator will yield, you understand I didn't just start raising the devil about this when this administration came into office. I have been complaining about it for a long time.

Senator BENNETT. In the course of your statement you said this administration should do it and hadn't done it and I just want the record to be straight on that.

The CHAIRMAN. I think I referred to it as a bipartisan deception, and I am satisfied that is just what it has been.

Senator BENNETT. We will have to blame the men who wrote the Constitution.

The CHAIRMAN. No, just blame those who keep the figures.

[Laughter.]

PRESENT STATUS OF TRADE NEGOTIATIONS

Senator BENNETT. Mr. Eberle, just what is the present status of trade negotiations in a general sense? Where are we? Are we at the beginning of a situation, at the end, in the middle?

Mr. EBERLE. We are, Senator Bennett, we are really at the beginning because the United States has really no authority or at least any credibility with which to enter into negotiations and, therefore, we are at the

threshold of a very major opportunity. We will have to decide whether we want to walk into it. Preparations for the multilateral trade negotiations committee are underway. The United States cannot participate or give leadership without congressional blessing and authority on a joint basis when we bring it back so we can enter into agreements. We have the same thing going on, a whole range of international opportunities, whether they be in the food conference or wherever they might be, trade barriers, whether they be the oil, the energy, wherever we can try to solve some problems like common standards and labeling procedures. The United States has no viability or credibility at the negotiating table unless we have a procedure with Congress as to how we are going to negotiate and bring agreements back for approval and that is what we are asking for here.

Now, secondarily, we are also in the same position as that even for small deals, and I am talking about, Senator Talmadge, a question about tobacco. We could have settled that 2 years ago if we had any authority to compensate just a tiny bit, and yet we have absolutely no authority. We provided for that kind of authority in the bill so we can make some of these deals to solve some of these problems as we go along, again, authority to negotiate in conjunction with participation by Congress. So we have a great opportunity to deal internationally, to manage our problems domestically, and what we are saying is are we prepared to walk forward and accept that opportunity. I think we should.

Senator BENNETT. Just to clarify it still further, is there any—when and how did this series of negotiations start. Who supplied the incentive to start them? Or the other nations working at them? How long have they been working at them? We used to talk about the Kennedy round and assumed that was a specific pattern that began and ended at a certain time. When did this series begin?

Mr. EBERLE. If you had to set a date, they really began on August 15, 1971, when then Secretary of Treasury Connally and the President closed the gold window and said we had to look at the whole economic system. Between that date and the Smithsonian Agreement we were looking at how to get the monetary structure, the trade structure, and it is from the resulting Smithsonian Agreement that countries must now also take a look at the exchange rate monetary system and also the trade system. In February of 1972, we entered into a declaration with the European Community and with Japan that we would try to find a way to begin multilateral trade negotiations in the fall of 1973. That was the beginning of it.

They have proceeded along those lines, there have been a number of countries that have from time to time said they were not interested but as recently as during the last 3 weeks we have had the reinforcements of the European Community, the developing countries, and with Japan, all saying there is more urgency now to have a framework for trade discussions because if we don't the opportunities to move backward are very serious.

Senator BENNETT. Will these negotiations or will the pattern of negotiations continue among our partners even though we might not have the opportunity to negotiate on the basis of the powers given in this bill.

Mr. EBERLE. The answer is they will continue to negotiate but they will do so bilaterally and regionally, to the probable exclusion of the United States.

BILL SEEN IMPROVING NEGOTIATING AUTHORITY

Senator BENNETT. Just at the risk of repeating, could you outline for us again the specific differences that the passage of this bill will make with respect to your power and ability to negotiate successfully.

Mr. EBERLE. Specifically the bill will authorize, first of all, advance authority on the tariff side and a credible procedure in cooperation with Congress, both during the negotiations and bringing agreements back for approval, to reduce NTB's. Our partners have said, "You have no authority. We can't come to the negotiating table until you have that authority."

In addition to that broader based multilateral negotiation or other multilateral discussions such as the Food Conference, and so forth, there are a great many bilateral issues that could be solved by the very authorities that we are seeking. We have no authority, as I indicated, for compensation. If we give import relief, other countries have the right to retaliate. We have no authority for small deals such as in the tobacco wrapper case as an example, where we by modifying another tariff by a very marginal amount, we could have eliminated that problem. It would allow us to get at some of these problems, and equally important to those negotiations which give an opportunity to U.S. leadership in the trading world, the bill will give us the authority from the management standpoint to get at some domestic problems.

An example, if other countries are going to subsidize products in third markets, this will allow us to take action against countries which do that. We don't have any authority to do that today. We don't have authority to respond in a very prompt manner on industrial products even in the United States. As a former businessman, I simply have to say that when you are dealing with competition, even though they are trading partners, we have both to negotiate with them and have the authority to discourage derviations from those agreements.

We must have the authority to see that our interests are protected in the event they do not live up to their international obligations and attempt to go around and do some things that we would consider either illegal, unfair, or unreasonable. And, incidentally, most of these authorities that I have talked about, both on the negotiating side and on the so-called reaction side, management side, all other countries have today. So that it isn't something new, but I can tell you as a negotiator we are at a handicap in going to the table without the kind of provisions that we have in the bill leaving open what we have said to you, you tell us how Congress wants to work with us because we must have that in order to have a successful negotiation.

Senator BENNETT. Well, in view of the oft quoted energy crisis—I will go back and start over again. You said earlier that you were afraid if these negotiations didn't succeed the world would break up into a series of bilateral and regional deals.

Mr. EBERLE. Yes.

Senator BENNETT. Do you think that danger is greater because of the energy crisis?

Mr. EBERLE. The answer is very clearly yes, because of the tremendous pressure on the current account international payments balances of countries. They all want to see now if they can't find some ways to ease their problems and this desire. It is reflected in bilateral deals, and it is reflected in currency devaluations or export subsidies or import or export restrictions, and we are confronted with those today.

Senator BENNETT. So is it fair to say that you feel there is a real urgency for the passage of this legislation?

Mr. EBERLE. There is.

Senator BENNETT. I have no other questions, Mr. Chairman.

COMMODITY SHORTAGES

The CHAIRMAN. Senator Fulbright.

Senator FULBRIGHT. Thank you, Mr. Chairman.

Mr. Eberle, as you know, my State is deeply interested in this matter because we are major exporters of such commodities as rice, soybeans, cotton, and poultry. So that I have a very deep interest, aside from the national interest, in a large volume of international trade. It would be a serious thing for my State to lose access to these markets.

I wonder, terms of trade which have now arisen as a result of acknowledged shortages in such things as oil and copper and bauxite, manganese, tin, and so on, these basic commodities. They have changed dramatically in the last year, I believe, against us, is that not so?

Mr. EBERLE. That is true, but I don't believe there is an exact identity of situations between oil and these other products.

Senator FULBRIGHT. Well, oil is the most current one but we import very large quantities, 50 percent of ore of a number of the basic commodities basic to an industrialized society.

Mr. EBERLE. Correct.

Senator FULBRIGHT. Aren't we in a similar situation with regard to bauxite, which is the basis for aluminum, copper, tin, and so on? Isn't that so, it is just a matter of time that they are likely to follow the example of fuel oil?

Mr. EBERLE. Let me take the example of bauxite.

Senator FULBRIGHT. Let me say I didn't want to go into detail. All I wanted to ask you is how serious do you think our situation is in regard to international trade.

Mr. EBERLE. The situation is serious. It is serious is a number of ways because the rules of the road are being undermined. We must find ways to deal with these problems and if we cannot deal with them in a multilateral context then we must have the authority in the United States to deal with that.

Let me turn to the question of bauxite as an example because there is a case where the producing countries have already had one meeting, including some of our trading partners. But the fact remains that even though we do import 50 to 60 percent, we have in Georgia and in Wyoming and in Utah more reserves of alumina in clay than all the known bauxite reserves in the world, and they can be turned up in a very short period of time.

Senator FULBRIGHT. At what cost? At a cost similar to what we have had?

Mr. EBERLE. At a cost similar to the present cost, the industry tells me.

Senator FULBRIGHT. It seems unusual for them to go to all the trouble of importing it from Jamaica if the costs are similar here.

Senator BENNETT. May I interrupt? I come from a State with alumina. The investment is in bauxite and there is no incentive to invest in a gigantic way in alumina as long as the bauxite is available. But we are not in the same situation with the basic material from which aluminum can be made that we are in oil and I think we could move fairly fast. But as long as people are satisfied with their source of supply it is just inertia. They don't get rid of that and turn to another one.

Senator FULBRIGHT. Then do I conclude, Mr. Eberle, that you do not think it is serious, that we have all the resources we need and it is not a very serious matter after all. That this an illusion that we need international trade.

Mr. EBERLE. No, it is still a very serious problem because of a lot of reasons. But the only point I want to make is if we get put in a short-supply position on a number of other products we have got a lot better answer. We shouldn't be put in that position because it does raise our costs. It breaks down the world trading system and these irritations and tensions are going to flow over into the security and political side very fast.

Senator FULBRIGHT. I didn't want to go into each detail. I was under the impression from your previous statement and others that we are as a great industrial nation faced with some much more serious problems than we have ever been with regard to the terms of trade. It is the basic commodity versus the industrial commodity, is that not so?

Mr. EBERLE. The answer is it is true, that is a fact, but each product has a different problem. You cannot generalize, that is the only point I was making.

INTERNATIONAL PEACE AND TRADE AGREEMENTS

Senator FULBRIGHT. Yes. I didn't mean to imply they are all the same. But I thought your statement was a very impressive one when you say:

> The key elements in the development of orderly economic relations with the nonmarket economics as presently drafted. However, U.S. extension of nondiscriminatory tariff treatment as well as credits and guarantees may well be precluded. This in turn could prevent the October 1972 U.S.–U.S.S.R. commercial agreement of the full settlement of lend-lease obligations from taking effect.

Then, I won't read it all, you say,

> It is the fundamental theme of the administration which is that international peace cannot be based on just one or another action, international action on international relations. The political security and economic issues are all intertwined.

What disturbs me is since you proposed this trade agreement, which was about the time of the President's policy of normalizing our relations with Russia in particular, but with other countries in a similar situation also, there has been a steady deterioration of that movement. There was an interesting article this morning by one of the authorities on conditions in the Soviet Union, that it looks as if they have about given up or are in the process of giving up any hope of what they call détente with this country, and that being so then there is little

chance of a relaxation of the apprehension which has accompanied this rivalry now for 25 years. It seems to me your trade program is dependent upon that element. You say political, security, and economic issues are intertwined. I agree with that, and if we fail in that aspect I don't know where you can make very much progress in creating an atmosphere in which international trade can expand, and proceed in an orderly manner.

Mr. EBERLE. Let me say, as for U.S.–U.S.S.R. trade and title IV of the bill, I would like to defer that until Secretary Kissinger is here on Thursday, and let him address himself to those relationships. But if that should happen and if the article you cite is correct, it seems to me that the bill takes on even greater importance because it does provide the ability for the free world to have negotiations and to strengthen the economic relationships of the free world and, in particular, Japan, the EC, and the United States in a framework with the developing countries that makes some real economic sense and can build on the strengths we have today and that is certainly equally as important or more important than the other.

Senator FULBRIGHT. I would agree with that. But the fact is that if the cold war is revived, and if there is no success in SALT, and we continue to devote our major part of our assets to military actions around the world, such as new bases in the Indian Ocean, and so on, it will not be an atmosphere in which long-term trade agreements are likely to be made because everyone is then apprehensive about the international political situation.

And accepting your own statement, with which I agree that the political, security, and economic issues are intertwined, I don't know how you would feel very confident that even if you got the trade that it would amount to much unless you have also a relaxation of the tensions that have accompanied our international agreements.

Mr. EBERLE. There is no question that if the political relations turn for the worse that it does have the impact that you suggest, but, at the same time, the growth in world trade in the free world is still tremendous and we need the framework in which to keep that going on a multilateral basis because as these political tensions from the other side become gerater with various economies there will be the opportunity for the other, the nonmarket economies to try to separate the free world, and we need a way to be sure we have a framework in which to work together.

Senator FULBRIGHT. I thought it was the theory of the Government and of the administration that for trade to develop you had to have this period of relaxation of tensions or a peaceful period and a prospect for peace.

Mr. EBERLE. Well, certainly we want that also. We think we need both. It would be desirable to have both.

Senator FULBRIGHT. Well, I don't make myself clear, I guess. You seem to say that, well, it is all right but we can proceed under a period of the survival of the so-called cold war where everyone is apprehensive about further military action.

I don't know how our country will ever manage our international payments if we continue to expend the kind of money we have, referred to by the chairman, on foreign aid, military aid, in particular, and upon the maintenance of military forces all over the world, which we are now doing. I had gathered from the actions of our

markets and many other aspects of our economy that we weren't in such good shape as you seem to feel. This morning I heard, I believe on the radio, that there were another hundred thousand, of motor employees laid off, for example. I thought we were in some serious difficulties, but you seem to be more optimistic than I had anticipated.

My time is up.

Mr. EBERLE. Senator, maybe I misunderstood you. I think in the longer term I am optimistic but I think from the shorter term we need the kind of authority we have asked here in order to see problems that we have today we are facing, and we do have serious problems, can be managed more effectively.

Senator FULBRIGHT. I thought the MFN was an essential part of it, but you backed down.

Mr. EBERLE. No, it is an essential part of it and we need this in addition in the free world.

Senator FULBRIGHT. My time is up.

The CHAIRMAN. Senator Fannin.

Senator Ribicoff.

BALLBEARING INDUSTRY

Senator RIBICOFF. Mr. Secretary, we have already heard about tobacco from Georgia, and chickens from Arkansas. Let's get down to ballbearings from the State of Connecticut.

As you know, the Tariff Commission some months ago recommended escape clause relief for the ballbearing industry. There has been a delay in your own recommendation to the President because you wanted new information. Now that you have it, isn't it time you carried out the intent of the 1962 Trade Act before you ask for brand-new authority in this bill? What is the use of seeking liberalization of this clause if you have been so reluctant to apply even a stricter clause?

Mr. EBERLE. Senator, I would like to defer this question to my deputy, Ambassador Malmgren. I disqualified myself from any connection with this matter because of prior connections in business so I would defer this to Ambassador Malmgren.

Senator RIBICOFF. Let's hear from Ambassador Malmgren. It seems to me the President is waiting for a recommendation, and I don't feel any compulsion to give you new authority if you don't carry out the authority that you already have.

Mr. MALMGREN. Senator, we have this problem under intense examination right now, indeed these very days, today, tomorrow, yesterday, in the executive branch and a decision has to be reached by the President by March 29 at the latest under law. I think you can expect a decision by that time. In the course of these examinations internally we have not only looked at the Tariff Commission report but we have had consultations with all the interested parties, including consultations with Members of Congress who have been concerned about this, including yourself. We have taken your views quite seriously, and we have been talking to labor union people, mayors, town council chairmen as well as the people in the trade. So that we hope that we will be able to give a good decision but I cannot say at this time what it will be. You can expect it soon.

Senator RIBICOFF. In other words, by the 29th there will be a decision.

EEC and Oil-Producing Countries

Now, Ambassador Eberle, you seemed optimistic about getting together with the European Community, especially in the oilfield.

This morning's press carried a story that the European Community is going on its own into negotiations with the Arab oil-producing States. If I have ever seen the back of the hand given to a nation it was this report in the press. This seems to be so contradictory to what took place in Washington a few weeks ago.

Do you want to comment on that?

Mr. Eberle. Senator, needless to say we are concerned but I don't think anyone should draw a final conclusion or project what this is really all about, and I did comment in my opening statement that if you look at the number of bilateral deals that have been made or discussed in a sense there is nothing wrong with some bilateral deals because they are even made in relation to the GATT so long as they fit within some overall relationship. We certainly need to know more about this. We have had some discussions on these and I would hope that until we know more about them you would refrain from a final judgment, and I will try to get more information as to what they really are all about.

We do know that some of the bilateral deals we read about today really are not going to be completed, and are not the kind of things that we will worry about. Again, here is a case where frankly we just don't know enough and we are following it and that is all I can say this morning.

Senator Ribicoff. But as you follow the various trade actions the European Community and Japan over recent years, it becomes very apparent that irrespective of the language they use, when the crunch comes invariably they will opt for their own specific special interests—what will be best for their own country. I think what worries many of us is that we, in turn, don't always base our decisions on what is good for the United States. But the European Community invariably makes the decision as to what is good for itself. This was indicated in the opening statement by the chairman of this committee yesterday when he cited the organization of the European Community, and the prospective loss of a billion dollars to U.S. industry without anything having taken place in the way of compensation during this entire period of time.

So when you come to a showdown the community acts for itself against the United States. When it is in their own interests then they want to cooperate with the United States.

Mr. Eberle. There have been, of course, in the past some cases of this. I have reason to believe that there are a number of cases where we have been able to solve some longstanding problems. I think there is an opportunity to, for us to get in and work on some of these problems.

But let me remind you that as an example, if there are export subsidies in a third market we have no authority in dealing with those, and these other governments know it and that is what we are asking for here. Today we have no authority to sit down at a negotiating table and even discuss this with them because they know we don't have any authority. And I think that until we have that authority we are not going to be able to represent the United States as well as we should.

Slow Process Seen in Trade Bill Passage

Senator Ribicoff. That brings up a very practical problem. It becomes very obvious that this trade bill is going to be a long-drawn-out legislative process. I believe the staff told me, there were 150 witnesses who wanted to be heard. It also becomes very obvious that there are a number of controversial issues in this bill that will take considerable time to markup in this committee, let alone when it comes to the floor.

Under those circumstances do you think it would be advisable to consider some simple resolution giving you authority to proceed with negotiations without nailing down the parameters of that authority?

Mr. Eberle. Senator, without knowing what those are I cannot respond directly but I can tell you that I am deeply concerned with the same issues that we are confronted with in working with the Congress—that is, of what authority we may have—which would be just as hard fought out over those resolutions as they would be over these issues we have here in the bill. So without knowing my guess is that we really are better off concentrating on the bill, because unless some resolution created credibility for the U.S. negotiators abroad we wouldn't have accomplished anything. If they knew, if our partners knew, that we had to come back and negotiate all over again with the Congress my guess is it would be even more difficult to get along with them. I think we have to settle these issues at home first and that unless you do that I for one would not be prepared to go out to the front line of the negotiations because I couldn't represent the United States the way it ought to be represented in a way in which we don't get out-negotiated.

Invasion of U.S. Market by EEC and Japan Seen Imminent

Senator Ribicoff. We have seen estimates of what Europe and Japan's oil bill this year would be, how they will skyrocket to some $70 billion in 1974. There is going to be a great problem as to how the Community and Japan will pay for this additional oil. Won't there be big export drives mounted to penetrate the American markets to earn additional trade surpluses to pay for this oil?

Mr. Eberle. There is no doubt about it that pressures will be there to do this. We have not seen it yet. We are watching very carefully and that is another reason why we need this kind of an approach in order to take those issues up directly and resolve them internationally, if they continue to have the power to proceed promptly because it may not be U.S. markets but third country markets, and they may wish to do that in other ways in which the United States could not be responsive. So long as you have one hand tied behind your back there is no way to deal with it effectively, but the challenge is there.

Senator Ribicoff. But the indication is that the Community has really thrown down the gauntlet to the United States and that has been highlighted by the news story I mentioned earlier. Now you face $15 billion in additional expenses by the United States for imported oil this year. There is an additional $70 billion costs to be borne by the other industrialized nations. We have the biggest market in the world, so an invasion is in prospect by Japan and the Community into the American market.

Here we are, with many potential economic strengths, and I am at a loss to understand why we don't use those strengths instead of standing supinely by when the rest of the world is getting ready to raid U.S. markets.

Mr. EBERLE. We do have a lot of leverage and I think what we need is the authority to use it, and, frankly, that is one of the integral parts of this total package, an integral part in the sense that you try to negotiate internationally but while you are negotiating if anyone takes advantage of you, you have got to have the authority to quickly respond, and I can tell you today I am not the most popular man in some parts of the world because we have responded and we have been firm in the American interest.

Senator RIBICOFF. I think that is good news that you are unpopular. I would just as soon you stay unpopular in that field.

My time has expired, Mr. Chairman.

The CHAIRMAN. Senator Hansen.

Senator HANSEN. Thank you, Mr. Chairman.

First, I do have some questions that I realize I won't have time to ask. I will submit them in writing.

[The questions and answers follow:]

AMBASSADOR EBERLE'S REPLY TO WRITTEN QUESTIONS SUBMITTED BY SENATOR HANSEN

Question. Why have orderly marketing agreements been given a lower preference that quotas under the import relief provisions of the bill? Would it not be preferable to attempt to work out voluntary arrangements with our trading partners as you—the Executive—did on textiles and steel rather than using quotas or adjustment assistance?

Answer. The preferred order for providing import relief in section 203 of the Trade Reform Act was established by the Ways and Means Committee. Although the Committee Report on section 203 does not state the Committee's reasons, several policy arguments support the Committee's position which places orderly marketing agreements last on the list of import relief measures.

First, quotas are arrived at openly and administered under public scrutiny. Import shares under orderly marketing agreements have sometimes been negotiated and implemented without such scrutiny. Foreign governments and suppliers divide and police the agreement quota outside of the public view.

Second, orderly marketing agreements can encourage the cartelization of foreign industries. When agreements are regulated at least partly by foreign suppliers, they must divide among themselves the allowed exports to the United States. To do this effectively, they are forced to organize to ensure that imports to the United States do not exceed the orderly marketing agreement levels.

Third, tariffs, quotas, or orderly marketing agreements restrict the importation of goods priced at world market levels and thus protect higher domestic prices. The difference between the domestic and the world price is "windfall" revenue for someone. In case of a tariff (or a tariff quota), the government gets the revenue. In the case of a quota, this revenue goes to the government when the quota rights are auctioned, or to the domestic importer when the quota rights are distributed on a non-fee basis. However, under orderly marketing agreements foreigners police their exports and therefore are likely to supply their guaranteed share of the market at the premium protected price. In this case, the difference between the world price and the domestic price is captured by the foreigner under the orderly marketing agreement as "windfall" revenue. It is estimated that under the steel orderly marketing agreement in some years foreigners captured $175 million in revenue. (See Steven P. McGee, "Welfare Effects of Restrictions on U.S. Trade", *Brookings Papers on Economic Activities*, Volume 3, 1972, p. 672).

Finally, orderly marketing arrangements are difficult to administer with respect to producers not included in the arrangement. There are also difficulties in shifts in the product mix of imports under each arrangement.

Question. Would you give us a list of the developing countries which would qualify under Title V of the bill.

Answer. The bill does not contain a definition or list of developing countries but rather sets out several mandatory and discretionary criteria which will limit and guide the selection of beneficiary countries. Twenty-six countries are designated as developed and not eligible for generalized preferences.

It would not be wise to list those countries deemed "developing countries" in the legislation as this would give rise to expectations of a "right" to participate in the United States program. Since neither U.S. governmental nor international agencies agree on objective criteria to define a developing country, whether a country qualifies can only be determined by an investigation of the circumstances obtaining when preferential treatment is implemented. This is especially significant for nations which grant preferential treatment to the products of another developed country. These nations must be permitted an opportunity to provide assurances to the President that such preferential treatment will be eliminated by 1976. Most importantly, changing circumstances will probably necessitate Presidential action to add or delete beneficiary nations during the course of the preference program. The Ways and Means Committee emphasized this in their Report stating, "Some countries now regarded as developing countries may reach a high enough level of development well before the end of the 10 years to justify termination of preferential treatment to them. Consequently, no definition or list of developing countries has been included in the bill." (p. 84)

The bill provides that generalized preferences may not be extended to (a) communist countries not eligible for most-favored-nation tariff treatment and (b) countries which grant preferential treatment to other industrialized countries unless they indicate that these "reverse preferences" will be eliminated by January 1, 1976. When designating a beneficiary country the following factors will be considered:

Whether the country has expressed a desire to be so designated;

The country's level of economic development;

Whether other industrialized countries extend generalized preferences to the country; and

Whether the country has nationalized property of a United States citizen or corporation without the payment of prompt, adequate and effective compensation.

No decision on beneficiary countries will be made until the trade bill is signed into law. In accordance with the current provisions of the bill, we will notify both Houses of Congress of the countries we intend to designate and the considerations on which these decisions are based.

The following is a list of countries and dependent territories which have requested or which have been granted beneficiary status under one or more of the existing systems of generalized tariff preferences. Those which would be excluded or potentially excluded by the MFN and reverse preferences provisions are designated.

Countries and Territories Requesting Beneficiary Status

COUNTRIES

Afghanistan
Albania [2]
Algeria
Argentina
Bahamas [1]
Bahrain
Bangladesh
Barbados [1]
Bhutan
Bolivia
Botswana [1]
Brazil
Bulgaria [2]
Burma
Burundi [1]
Cameroon [1]
Central African Republic [1]
Chad [1]
Chile
Colombia
Congo (Braz) [1]
Costa Rica
Cuba [2]
Cyprus [1]
Dahomey [1]
Dominican Republic
Ecuador
Egypt [1]
El Salvador
Equatorial Guinea
Ethiopia
Fiji [1]
Gabon [1]
Gambia [1]
Ghana
Greece [1]
Guatemala
Guinea
Guyana [1]
Haiti
Honduras
India [1]
Indonesia
Iran
Iraq
Israel [1]
Ivory Coast [1]
Jamaica [1]
Jordan
Kenya [1]
Khmer Republic
Korea (North) [2]
Korea (South)
Kuwait
Laos
Lebanon
Lesotho [1]
Libera
Libya
Malagasy Republic [1]
Malawi [1]
Malaysia [1]
Maldive Islands
Mali [1]
Malta [1]
Mauritania [1]
Mauritius [1]
Mexico
Mongolia [2]
Morocco
Nauru
Nepal
Nicaragua
Niger [1]
Nigeria
Oman
Pakistan [1]
Panama
Paraguay
Peru
Philippines
Portugal [1]
Qatar
Romania [2]
Rwanda [1]
Saudi Arabia
Senegal [1]
Sierra Leone
Singapore [1]
Somalia [1]
South Yemen
Spain [1]
Sri Lanka (Ceylon) [1]
Sudan
Swaziland [1]
Syria
Taiwan
Tanzania [1]
Thailand
Togo
Tonga [1]
Trinidad & Tobago [1]
Tunisia [1]
Turkey [1]
Uganda [1]
United Arab Emirates
Upper Volta [1]
Uruguay
Venezuela
Vietnam (North) [2]
Vietnam (South)
Western Samoa [1]
Yemen
Yugoslavia
Zaire
Zambia

[1] Potentially affected by reverse preference condition.
[2] Countries which do not receive most-favored-nation treatment from the United States.

DEPENDENT TERRITORIES

Afars and Issas (Territory of the)[1]
American Samoa, including Swain's Island
Angola (including Cabinda)
Australian Antarctic Territory
Bermuda [1]
Belize [1]
British Antarctic Territory
British Indian Ocean Territory (Aldabra, Farquhar, Chagos Archipelago, Des Roches)
British Pacific Ocean (Gilbert and Ellice Islands,[1] British Solomon Islands,[1] New Hebrides Condominium, Pitcairn Islands)
Brunei [1]
Cape Verde Islands
Cayman Islands and Dependencies
Comoro Archipelago [1]
Cook Islands
Corn Islands and Swan Islands
Falkland Islands (Malvinas) and Dependencies [1]
French Polynesia [1]
French Southern and Antarctic Territories [1]
Gibraltar [1]
Guam
Heard Island and McDonald Islands
Hong Kong [1]
Macao
Mozambique
Netherland Antilles [1]
New Caledonia and Dependencies [1]
New Guinea (Australian) and Papua
Norfolk Islands
Portuguese Guinea
Portuguese Timor
St. Helena (including Ascension, Gough Island and Tristan da Cunha)
Saint Pierre and Miquelon [1]
Sao Tome and Principe
Seychelles (including Amirantes) [1]
Sikkim
Spanish North Africa: Sahara (Rio de Oro); Saghiet-el-Hamra
Surinam [1]
Territories for which New Zealand is responsible (Cook Islands, Niuwe Island, Tokelau Islands and Ross Dependency)
United States trust territories of the Pacific Islands: include—Midway Islands, Johnston and Sand Islands, Wake Island and the Trust Territory of the Pacific Islands: the Caroline, Mariana Islands
Virgin Islands of the United States (St. Croix, St. Thomas, St. John, etc)
Wallis and Futuna Islands [1]
West Indies*—Leeward Islands (Antigua, Montserrat, St. Kitts-Nevis-Anguilla, and British Virgin Islands) and Windward Islands (Dominica, Grenada, St. Lucia and St. Vincent)

Question. Could communist countries be included in our system as beneficiaries?

Answer. A country must receive non-discriminatory (MFN) tariff treatment in order to be eligible for the proposed U.S. system of generalized preferences. All Communist countries are currently ineligible under this provision except Yugoslavia, which has requested beneficiary status, and Poland, which has not. Poland, along with the Czechoslovakia, East Germany, Hungary, and the USSR, is on the list of 26 developed countries contained in the bill and would not be designated in any event. Yugoslavia, which considers itself a developing country and is generally recognized as such by other developed countries, would not be excluded by any of the mandatory criteria. If non-discriminatory tariff treatment

[1] Potentially affected by reverse preference condition.

is extended to other communist countries, under the provisions and procedures of Title IV of the Trade Reform Act, their subsequent eligibility for generalized preferences would be subject to the same provisions which apply in designating other countries.

Question. Would countries that are associated in one way or another with the European Common Market be included as beneficiaries?

Answer. Most countries associated with the European Communities (EC) provide, as part of the association agreement, trade preferences to EC products which enter their markets. Countries which have such association agreements with the EC or with any developed country than the U.S. will have to provide satisfactory assurances that these "reverse preferences" will be eliminated by January 1, 1976 in order to be designated a beneficiary of the U.S. system. Preferential treatment would be withdrawn if a country giving such assurances has not eliminated reverse preferences before that date. The condition would not be met if the developing country simply extends those preferences to the U.S. It should be noted that these preferences do not require that potential beneficiaries dissolve their associations with the EC.

Question. Would oil-producing countries be included as beneficiaries in our system of generalized tariff preferences?

Answer. None of the major oil-producing countries (except Canada and communist oil producers) will be excluded by the mandatory criteria contained in the title of generalized preferences. These oil-producing countries are beneficiaries of all 17 generalized preferences systems operated by other countries. The economies of Arab oil producers are such as to make it unlikely that they will benefit from the proposed United States system. Non-Arab producers appear to be in a somewhat better position to benefit but only in the long run.

No decisions will be made on whether or not to designate these countries as beneficiaries until after the trade bill is signed into law. Considerations to be taken into account in making such decisions will include, but need not be limited to, factors such as the level of economic development and whether or not a country has expropriated U.S. property in violation of international law. As the bill is now written, the President would have discretionary authority to provide or to deny generalized preferences to any of these countries. Congress will, of course, be kept fully informed of the basis for any decisions on beneficiary status.

Increasing World Trade

Senator Hansen. I would like to pose a couple of philosophical questions. When the Secretary testified yesterday, Mr. Shultz said that:

> During the time of rapid inflation and a short supply situation in many commodities it has become more important than ever to remove artificial barriers that result in fewer goods being produced both here and abroad. Tariffs, quotas, embargos, and other restrictions on imports and exports generally prevent each country from producing what it could produce more efficiently. Thus fewer goods are produced at higher costs and there is a loss of economic welfare to the country as a whole.

I think I have heard some of the arguments that have been made in support of this concept articulated by Secretary Shultz but I would ask you if it isn't fair to assume, given the ease with which people can travel around the world and the increasing ease with which we can communicate one with another, and that there will be a free movement of capital and technology as well as labor, which I think is implicit in what he was saying, that we are going to have to anticipate the time if we remove all tariff barriers and if we try to let each part of the world produce those things which they are best able to produce, that there will also be eventually a leveling out of standards of living worldwide. Is that a fair assumption, Mr. Ambassador?

Mr. Eberle. No, it is not necessarily on that basis. We can all philosophize but I have to deal with the real world to try to implement that philosophy and, first of all, let me comment by saying that I do not

believe such total free world trade is practically possible in the near term or maybe even the long term.

Senator HANSEN. I don't either.

Mr. EBERLE. What we are really talking about here is how to continue to increase world trade. Two, that the so-called protectionism of the twenties and thirties will probably not come back for the reasons that the Secretary outlined, but that there will be a different kind of approach to so-called protectionism, which I have called defensive nationalism. That includes regional developments, preferential tariff arrangements as an example, or export subsidies to third markets. So fundamentally there still will be continued room for major differences both in the sovereign governments domestic policies and those policies will be more or less brought together, first of all, in a world of floating exchange rates which will absorb some of those differences, both the rates of inflation and also the differences in standards of living; and, second of all, in the trade framework where there are some countries that have greater stakes it will take a longer time for other countries to develop those stakes.

Hopefully, some of the developing world will move up in this arena with some preferences so that they will get out of poverty but I do not foresee in my lifetime this so-called leveling. I think it is more a question of bringing up than it is of leveling and of participating in a way and in a framework which takes advantage to the maximum extent possible of increased trade, comparative advantage to keep costs down and create more jobs. That is the approach that we are trying to take as a practical matter to the trade problem.

Senator HANSEN. Well, I appreciate your saying that because I share your view that we aren't going to reach the millenium that seems to be implicit in this concept that we could achieve at one fell swoop, world peace, and better living for everybody by simply erasing all evidence of any national interests and trade barriers.

Many people have talked about the oil boycott, and there were some of us who are members of this committee who had made a tour of some of the countries in the Middle East just after the first of the year, who talked about the threat that escalating oil prices posed, not only to developed economies but to the developing nations as well. We discussed this with a number of world leaders, including King Faisal of Saudi Arabia, and his response was:

> We are just catching up. When you look at the costs that we pay for steel and for cement and all of the things we have to import and have been buying from the western world for a long time you surely wouldn't begrudge us now for our getting a little more for what our oil is worth and what we have been selling so low for a long time."

It is pretty hard to answer that. And when you look at them and compare their standard of living with us, and I am sure a lot of us wouldn't want to change places with the typical Arab in the Middle East. I think it is easy to inveigh against what is happening around the world, and too often what we are doing is reflecting our own appraisal of our own situation as compared with that of someone else in another country when we make these assertions.

I think also that as we consider a new trade policy we have to ask ourselves where to draw a line between what might be desirable on the part of making our markets available and opening other markets

to our products so that we can have a freer exchange of goods, on the one hand, and our national security, on the other.

We have certainly seen what can come, following undue dependence on any foreign source of supply for something as important as oil and I just think that we must keep in mind the considerations that seem to be important for us as a nation defensively as we try to structure the kind of mechanism that will make it easier for our products to go abroad and those of other nations to be imported.

Do you share that feeling?

Mr. EBERLE. I think there are really two issues here that you bring out very clearly: First of all, Congress and particularly the Senate Finance Committee, has to answer these questions: The first one is does Congress want to participate with the executive branch in trying to enter into these negotiations, whether they be multilateral, bilateral, whatever they are, and try to solve some of these problems, recognizing the philosophy that you and I have talked about and that is fundamental because if the answer is "No," you don't need me.

If the answer is "Yes," then the second question is simply how do we define the terms under which those negotiations and the trade bill and the management are going to take place. But I am hopeful that we are really talking about the second issue in these hearings and why, in response to Senator Ribicoff, I made the point that if we are to have really true negotiations to represent America it takes the backing of both Congress and the Executive because of the constitutional provisions to have a trade negotiation, and we have got to find a way to put that in perspective and in a trade bill before the United States can be effectively represented, and we haven't resolved those issues in the past and if we are going to do a good job of negotiation we have got to have that kind of backing and, therefore, I think now is the time to face it.

EX-IM BANK LOANS TO RUSSIA

Senator HANSEN. I appreciate that response, Mr. Ambassador.

I understand that the Export-Import Bank has made and is continuing to make financial commitments with respect to projects undertaken in the U.S.S.R. notwithstanding the fact that one House of Congress has already adopted legislation which would likely have the effect of precluding such Export-Import Bank operations in Russia under present circumstances.

Can you explain this policy and do you expect that the Export-Import Bank will continue to finance projects in Russia at the same rate as it has done in the past?

Mr. EBERLE. Senator, I think there are two issues involved here. First of all, there was a congressional action 2 years ago which allowed the Export-Import Bank to make loans to nonmarket countries specificially, and that is the authority under which I understand that commitments have been made to Russia. The fact that one House has moved on this is certainly an indication, and I can assure you the Export-Import Bank is very knowledgeable and is concerned about this.

Now, the commitments, and I would rather have the Eximbank speak for itself, but it is my understanding that they have a procedure where they make a commitment and then they go ahead and make

the loan. If the loans that have been made to date that we have read about in the paper were those in which the preliminary commitments were all made before this sense of Congress resolution—my colleagues advises me there may be an exception to that, but I think this is the road they are following, they are concerned, they do want to recognize the congressional wills, but at the same time, they have this other authority generally to move on. But I might add that the program of the Eximbank, is a normal program, which is no different with Russia than with anybody else, and there have been no massive credits of any kind.

Senator HANSEN. Thank you, Mr. Chairman. My time is up.

The CHAIRMAN Senator Harry Byrd.

MFN TREATMENT AND EXTENSION OF CREDITS TO RUSSIA

Senator BYRD. Thank you, Mr. Chairman.

Mr. Ambassador, I am basically inclined toward this legislation. I want to reserve judgment until all the facts are developed but I am inclined to support it in general.

I note in your discussion of title IV of your statement today you say title IV of the Trade Reform Act authorizes, "The President subject to certain conditions to extend nondiscriminatory tariff treatment to imports of certain Communist countries not currently granted it."

I see you are shying away from the term "most-favored-nation treatment" and you are substituting the words "nondiscriminatory tariff," but what you are saying in effect is that you seek authority to extend the most-favored-nation treatment which is a term which has been used for 25 years. Why do you want to get away from that term?

Mr. EBERLE. Very simply, Senator Byrd, it is the same as the most-favored-nation treatment but because most nations now already have that, it is simply to give the other countries, namely the few that are left equal treatment to the rest of the world.

Senator BYRD. Then you say, "as presently drafted, however, U.S. extension of the most-favored-nation tariff treatment as well as credits and guarantees may well be excluded." As presently drafted, the credits and guarantees and the most-favored-nation treatment are excluded, are they not?

Mr. EBERLE. There is the provision under the Jackson-Vanik amendment that would require the President to make certain certifications country by country, and it is on that basis of those certifications that we doubt that they could be granted.

Senator BYRD. Do you think that credits and guarantees of the credit of the U.S. taxpayer should be—that an administration should be permitted to use the credit and guarantees of the taxpayers without congressional approval?

Mr. EBERLE. The answer is that Congress must give its approval. It already has given its approval. It is a question of removing it at this time insofar as credits are concerned. Insofar as the equal tariff treatment is concerned, Congress also must give its approval.

Senator BYRD. Not to the specific negotiations just abroad—you are seeking, I assume, a blanket authority.

Mr. EBERLE. That is correct.

Senator BYRD. You are seeking a blanket authority.

Mr. EBERLE. For the remaining countries, correct.

Senator BYRD. You are seeking the right to extend credits and guarantees without limit by broad constitutional action.

Mr. EBERLE. No. On the question of credits there is nothing in this bill which extends the authority for credits. That authority lies in the legislative authorization of the Eximbank. There is a restriction in the Jackson-Vanik amendment to the trade bill that would limit the granting of credits. So we are not asking for any more authority on credits at all. It is that we are opposed to the restriction as drafted.

On equal tariff treatment, we are asking for authority to grant this to nonmarket economies under a procedure, and that is the new authority that has been requested.

Senator BYRD. What is the procedure?

Mr. EBERLE. First of all, the President must reopen negotiations with these countries, either to enter into the GATT, join the GATT, and be obligated to the GATT rules or to have a separate trade agreement which cannot exceed more than 3 years, and if those can be done on a satisfactory basis then he could extend the equal tariff treatment to the nonmarket.

Senator BYRD. The most favored nations treatment.

Mr. EBERLE. The most favored nation treatment.

Senator BYRD. Then you say this, in turn, the way the legislation is currently drafted, this in turn "would prevent the October 1972 U.S.-U.S.S.R. commercial agreement and the full settlement of lend-lease obligations from taking effect."

Mr. EBERLE. That is correct.

Senator BYRD. That is a justification for me to vote against your proposal.

Mr. EBERLE. The proposal was amended with the Jackson-Vanik amendment which provided that additional considerations must be complied with relating to emmigration. It is our opinion that U.S.S.R. would not be able to comply and, therefore, the agreement could not be carried out. Secretary Shultz addressed that issue specifically yesterday.

Senator BYRD. What I am suggesting, insofar as this Senator is concerned, that one situation you mention would be enough to cause me to support the House proposal. The United States got very little out of that October 1972 agreement. It got 2 cents on the dollar ($48 million) on an unconditional basis. It got $722 million on a conditional basis, conditioned on the Soviet Union getting most favored nation treatment, credits and guarantees. You start out with the U.S. lend-lease program of about $11 billion to Russia. That was written down to $2.6 billion and then from that point on it was negotiated down to where we got $48 million on an unconditional basis and $722 million conditional agreement to repay a loan that they owe providing we give them credits and guarantees and the most favored nation treatment. I think that was a very poor and very undesirable agreement that our country made.

Mr. EBERLE. Senator, let me say, it is true that that agreement is conditioned on most favored nation tariff treatment. It is not conditioned on credits at all. There is no condition on the credits but only on MFN.

Senator BYRD. But, Mr. Ambassador what they are seeking is credits, isn't that right? Let's be practical about it. You and I know what they want are credits.

Mr. EBERLE. There is no question about that.

Senator BYRD. As a practical matter that is where it leads.

Mr. EBERLE. But not in the agreement.

Senator BYRD. Perhaps technically, but what they want, as a practical matter are credits.

Mr. EBERLE. I think you will find if we acted on MFN and the Congress acted on credit that the agreement could still be fulfilled.

Senator BYRD. What I am saying is even if the agreement is fulfilled we get very little from it, and they are only willing to fulfill it if they get certain concessions from us. That was a loan that we made to them and they say, "We will pay you back partially but only if you make additional concessions to us." I think we came off second best in that just as we came off second best in all of those 1972 agreements with the Soviet Union, in my judgment.

Mr. EBERLE. Senator, I think I would like to add to that point there there are other provisions in here, in other words, the Soviets also agreed under that agreement to provide an equal amount of credits to the United States.

Senator BYRD. Equal amount of credits to the United States.

Mr. EBERLE. That is correct.

Senator BYRD. How does that work? Have we gotten anything from the Soviet Union in the way of credits and what sort of credits?

Mr. EBERLE. Whether we had any extension of credits I am not sure but as goods start to move from Russia to the United States the United States can borrow under a similar type Ex-Im Bank from Russia.

Senator BYRD. When the Russian debt had to be negotiated down from $2.6 billion down to $48 million on an unconditional basis it seems to me we want to be very careful before we go into any more arrangements with the Soviet Union.

Mr. EBERLE. Well, as you know, you will have Secretary Kissinger as your witness on Thursday and he is certainly a great deal more familiar with this. I would also like to point out, however, that the settlement on the lend-lease side was the same settlement as with other countries, it compares favorably with the English settlement.

Senator BYRD. Just because we gave away the taxpayers' funds to one country doesn't justify giving them away all around the world, although we have done that, too. I am just suggesting that in these negotiations, as I see it, our country has come off second best. That is why while I want to support this legislation, and I am going to support a great deal of it, I have some hesitancy in giving authority to any administration, and particularly to an administration that has refused, in my judgment, to do hard bargaining with the U.S.S.R.

Thank you, Mr. Chairman. Thank you, Mr. Ambassador.

The CHAIRMAN. Next in the order we are proceeding is Senator Packwood of Oregon.

Senator PACKWOOD. Ambassador, you used to be, and I am sure you could again, be a very great legislative leader in Idaho. You and I first met in the days when we were in the State legislature, and it seems to me we face two philosophical problems in this bill. One is what power shall the President have to negotiate subject or not subject to ratification by Congress, and I realize the difficulties he is in. In most cases he or his representatives are negotiating with heads of parliamentary governments who can both negotiate agreements and deliver on them because they can control the legislative branches of their government. Once they conclude an agreement they are dealing with members of their government because they can hold the members of their government because their responsibility is responsibility to their prime minister.

So if the President is going to negotiate on any kind of equal basis and promise delivery he has got to have some kind of close equivalent capacity to be able to deliver.

Yet we come back to a Congress that has been burned several times because of the Vietnam war and a number of statements and misgivings about powers we gave away, so we try to write a bill that will give the President power to negotiate and yet give us power to somehow do more than simply ratify.

And yet, Bill, you and I know the provisions that are written in this bill for ratification are almost illusory, and I am not sure but what they shouldn't be, but they are almost illusory. We will have 90 notices of some intent to enter into some agreement, which has probably been under negotiation for several years anyway, and Congress will get 90 days' notice that we are thinking of negotiating an agreement with the Common Market, and after you negotiate we get 90 days more to disapprove of it, which any committee gets for 7 days and if there is a motion of disapproval on the floor of either House the resolution goes out, and I don't think the process is going to work.

Let me ask you, first, returning to my second point: One, does the administration genuinely want a significant congressional hand in the power not only of ratification but of negotiation and, if they do, two, how do we draw up a better process than what we have in this bill?

Mr. EBERLE. Senator, there are days when I wish I were back in Idaho.

Let me say we do desire a significant participation by Congress in these negotiations and the negotiating process because, first of all, it is constitutional and Congress under that Constitution really must participate.

Second, I do not believe the process that has been proposed here is illusory. There are very specific provisions in the bill for Members of Congress to participate with us during these negotiations before any agreements are drafted in final form so that you will have seen it and, second of all, for the committee procedure, drawn by the House. This was deliberately not proposed by the administration, in order to allow the House to handle it appropriately. That was their choice in the House. It was to see that the bill would not get tied up in committee, there was time for adequate committee hearings, which then leads me to say we are prepared and we would urge the Senate to tell us

how you want to operate on that procedure in the Senate. We are not locked into this.

All we would say is we would like to leave this procedure that is here for use in the House because that is what they want. If the Senate wants a different procedure we would be delighted to have the Senate have a different one. So the answer is yes, we want a significant congressional participation. No, it is not illusory, and yes, we want you to tell us how to do it.

Senator PACKWOOD. Bill, I wish you could figure out a way to do it because as I listened to all the other Senators around here, because among all the other legislative bodies in the world they are beholden to their prime minister, we are here beholden to our constituents. We are not beholden to our chairman but our constituents, and as we listen to ballbearings, rice, or lumber, in my case, and I want to make sure that in drawing this we don't end up with a bill where the powers in Congress are able to upset a very finely tuned agreement because particularly if we being on the Ways and Means Committee or Finance and go back to our States and blow very hard about how well we have done and done very well for our States, the national interests may not have been served. I don't know how to get around that problem and I would be perfectly willing in private conference with you to draw upon our legislative experience on how we come up in avoiding those special interests, protecting the national interest, and yet getting good legislative input into this bill.

Mr. EBERLE. I would be delighted to have that private conference. I have enough problems negotiating abroad, and I don't want to negotiate with the entire Senate and make suggestions as to how it should organize itself.

CAN THE U.S. HAVE A FAVORABLE BALANCE OF TRADE?

Senator PACKWOOD. The second question, philosophic question, this other part, and that is the whole concept of trade over the next 10 or 20 years. Are you convinced in your own mind on a cost, insurance, and freight basis that the United States can over a decade or generation have a reasonably balanced balance of trade?

Mr. EBERLE. Yes, I am. I think the United States today, providing we can continue with a flexible monetary exchange rate, can remain highly competitive in a broad range of products, and I might go back to the question that was asked yesterday about labor not being competitive in the labor-intensive area. We have a number of industries that are labor intensive such as the aerospace interests where we have developed a high degree of skills, where we will remain highly competitive, in the computer business, the radio business, and in manufacturing operatiions where you put all these things together by hand. We lost them but we got the business back because we developed higher skills, and I think we have that kind of ability and, therefore, can maintain, in fact we must maintain this kind of approach if we are going to be able to continue to have a positive payments balance, current account balance to give leadership in the world, we have got to, and I think we have the ability to do it.

Senator PACKWOOD. Bill, I agree with you. I hope we don't turn our back, whether it is trade with the Soviet bloc nations or otherwise, it is in our benefit and their's for an expanded trade. I just feel frus-

trated by this bill because it doesn't quite accomplish what I was hoping and I was hoping I could draw amendments which would make it better.

I wish you good luck, I have no other questions.

Mr. EBERLE. Senator, I can assure you it is my intent that we are openminded to find a way to make Congress an effective participant because it is essential.

The CHAIRMAN. Senator Roth?

SECTOR APPROACH TO TRADE NEGOTIATIONS

Senator ROTH. Thank you, Mr. Chairman.

As has been indicated by a number of the committee, we are interested in tough negotiations but it concerns me that some of the provisions of this act which may on the surface appear to provide for tough negotiations may have the opposite effect. For example, as I understand this one section it requires you to the extent feasible to negotiate on the basis of product sectors in manufacturing and mining and in agriculture. I wonder whether this makes for as tough negotiations as we want or whether you wouldn't be better off perhaps to be in a position to make trade-offs between one sector and another, for example, between the industry and agriculture. I wonder if you have any comments on this aspect of the legislation.

Mr. EBERLE. Yes. As I tried to indicate in my opening statement that we do believe a sector approach is one important technique for certain parts of the negotiation for a number of reasons. We think, however, this language could be interpreted as requiring us to use it throughout the negotiations and not have the opportunity to look at the overall benefits and reciprocity.

For example, standards are a very important factor in our industrial world and yet we are probably going to have to start with standards on a broad basis of an agreement on Government procurement. You can't negotiate those on a sector-by-sector basis. There has got to be more flexibility, we believe in this, and again we are prepared to recognize the need for sector negotiations but I think we also have to have some flexibility to approach the problem because it could be interpreted, as for an example, by our trading partners that we have to start all negotiations on a sector basis and some of our trading partners would like that and it would put us at a disadvantage and, therefore, we do think there is more flexibility needed here.

DRUG TRAFFIC AND THE TRADE BILL

Senator ROTH. In another section, 606, it provides that it is the sense of Congress that effective international cooperation is necessary to put an end to illicit production, et cetera, of dangerous drugs. Then it goes on to say "In order to promote such cooperation the President shall embargo trade investments, public and private."

I agree, as I say, very much with the goals of this part of the legislation. But one country, for example, that has been criticized for having inadequate controls is France. I wonder how you construe this language in section 606. Does this mean we would have to embargo all trade and investment to France or can the President selectively use his weapons? Should he have this flexibility?

Mr. EBERLE. We would have to admit, Senator, that we are not very happy with this provision and it is, unfortunately, subject to two different interpretations.

The way out of it is that it is a judgmental decision, but I think it could lead to some Draconian action being required which should not necessarily be taken.

The words need to be clarified if that section is to stay in the act. We would agree with that.

Senator ROTH. It seems to me, as I say, I agree with the purpose but I suspect under this language the President would rarely if ever use it, so it is probably self-defeating.

Mr. EBERLE. I think that would probably be true.

ADJUSTMENT ASSISTANCE

Senator ROTH. I raised some questions yesterday with the Secretary of the Treasury with respect to adjustment assistance for both workers and firms and I am sure, as you are well aware, there has been a lot of criticism of the present legislation, even though I think it has to be admitted that the present Administration did a lot better job than has been done in the past in this area.

One question I have is why should worker adjustment assistance for workers, be dependent upon increased imports affecting the firms as well as workers. The converse is also true. Why should a firm adjustment assistance have to depend lay-offs of workers? Perhaps if we had given more aid to industry earlier we could have avoided the unemployment which is a desirable objective.

Do you have any thoughts on this? Do you feel this language is adequate or do you have any suggestions about how to better trigger adjustment assistance to both workers and firms?

Mr. EBERLE. I think it is our feeling that the words are adequate. The problem is how to tie assistance to injury caused by imports. There is a whole range of other programs that are involved. So long as we keep this related to imports we think we are all right.

Senator ROTH. Let me ask you again, do you feel assistance to the workers necessarily must be triggered on assistance to the industry? Why the dual criteria?

Mr. EBERLE. I think the rationale for this was that imports normally affect an overall industry and if it is only a segment of it or a part of the industry that is being hit it is probably due to some other reason. It may have been a technology problem. Unfortunately, we do get into the bad management problem, so that we try to hold it pretty tight to the import relief area, hopefully, the general provisions for other programs can deal with other problems.

Senator ROTH. I must confess that this double test concerns me and I am not sure I understand the reason behind it.

What does the Administration estimate the cost of the adjustment assistance for both workers and firms to be? Do you have any figures on that?

Mr. EBERLE. I don't have a precise firm figure handy. We had estimated on the labor side in excess of $300 million, $300 to $350 million. On the firm side it was substantially lower than that. It was in the range of $25 to $50 million.

Senator ROTH. As I indicated yesterday, that is a sizable figure. I think this is a very important aspect of the legislation but it does seem to me that there is some merit to the contention that it is a cost that the international trade should bear.

PREFERRED ORDER OF MEASURES TO MEET DISRUPTIVE INCREASES IN IMPORTS

I would like to go to section 203 of the bill which establishes a preferred order of measures that the President might take to meet disruptive increases in imports. As I understand it, the most preferred means is an increase in duty, followed by tariff rate quotas and quantative restrictions, and the last and least preferred means is orderly marketing arrangements or what we more commonly call voluntary agreements.

It seems that the Administration has quite effectively used voluntary agreements recently. I understand, for example, something like 50 percent of the imports from Japan are under some form of voluntary restraint.

I wonder, Mr. Ambassador, if you are in agreement with the preference list that is outlined in this bill and, if so, does this signify an intention to move away from voluntary agreements toward other forms of import restraint?

Mr. EBERLE. In principle I am in agreement with this, although I would have to say that the provision for precise ordering was put in by the House.

Let me respond by saying that, although we would expect to use orderly marketing agreements from time to time, they are the kind of agreement that the public can suspect because they are negotiated between governments and as you may know the Consumers Union has challenged a number of these.

I think there are proper places for them, but that they should not be used on a wide basis. We want to be sure that our consumers are represented in these agreements and, therefore, if we can't solve the problem in one of these other ways then we can turn to this kind of agreement. It may be that we turn to it first because it is the only effective way to do it, but it does have some antitrust and consumer implications that make the agreements very difficult to work out. As you probably know, a number of the Members of the Senate have raised serious questions about voluntary agreements. In the limited areas where they might be effective we would certainly want them but I think they are not the things that we should put at the top of the list. It is a question of what is going to be effective and if that is it, why fine, and if not, they move down.

NONTARIFF BARRIERS

Senator ROTH. Mr. Eberle, as I understand, any agreement on nontariff barriers would require a change in domestic laws subject to the disapproval of the Congress. If it does not entail such a change, then the President can conclude an agreement on his own authority after consulting the Congress.

I wonder could you give me any examples of significant nontariff barriers we would want to negotiate that do not require changes in domestic law.

Mr. EBERLE. I think probably the most significant one, Senator Roth, is the administrative regulations relating to the paperwork on exports and imports. We probably have more documentation than most other countries of the world. We estimate the cost is $5 or $6 billion a year to the importers and exporters that are involved in this. It could be simplified.

The important fact here is, that could be done today, as a matter of fact, without a trade bill, but we do want to advise the Congress where there is no authority to take action. If we take an action and you tell us that we shouldn't be doing it, I can assure you that we are going to listen because we have other provisions where we have the authority to act, and we think it is this kind of cooperation that is important. Because it does fit into the total pattern here, we will be bringing most of these agreements back for approval, so I think the supposition of your question is there are not going to be too many of these, but where they are we certainly want to consult with Congress about it.

Senator ROTH. In conclusion, just let me say anything you can do to minimize and simplify the paperwork and redtape of this Government will be a step forward in my judgment.

Thank you, Mr. Chairman.

Senator HARTKE [presiding]. Senator Bentsen.

Senator BENTSEN. Yes; thank you very much, Mr. Chairman.

NEGOTIATING AGRICULTURAL AND INDUSTRIAL PRODUCTS SEPARATELY

In the past the Japanese and the Europeans, Mr. Ambassador, attempted to negotiate separately on agricultural products as opposed to industrial products and in the Kennedy Round we actually made very little headway on agricultural products. We saw the French abstain from negotiations for almost a year. So my question is, do you think it is more feasible to negotiate on industrial products, commodities and agriculture, all in the same package, and if we cannot, do we have enough leverage in agriculture to negotiate separately on that, apart from the industrial products?

Mr. EBERLE. I have the feeling that we must weave them into one negotiation. If we do not we will not have the maximum leverage either on the industrial side or the agricultural side to achieve the kind of progress that we ought to have.

Now, we have made a major breakthrough recently in the preparation work, that these are going to be kept together and looked at, and there is significant reason to believe that we can make progress in a number of different areas keeping them working together.

Now, as a practical matter, that means that you will have to look at a sector to find out what the problems are, to find out what the negotiable issues are, and you will be looking at those on a segmented basis. But when you get down to the crunch they are going to have to be brought together for an overall look. This is the only feasible approach this country should take.

Upgrading Commercial Attachés

Senator Bentsen. Mr. Ambassador, one of the things that concerns me as I visit embassies around the world and talk to the commercial attachés is that time and time again I find he is a man who has little background and experience in that field, lacking business experience, lacking a study of economics, MBA, what have you; and then I talk to the American businessmen who tell me that they feel they do not have the expertise in some of these embassies that they need in trying to expand sales of American products when I think it is to the benefit of American labor and American business as well.

I think of situations like the little country of Finland sending around trade experts to brief their consuls in some of the smaller towns, to really sell their products.

What are we doing in that regard in trying to upgrade our commercial attachés?

Mr. Eberle. As a former businessman I share your concern. I do believe, however, that the Department of Commerce and the State Department have started a program to upgrade U.S. commercial representation overseas. It has a long way to go, and I think that this would be a good question for you to discuss with the Secretary of State when he is here Thursday.

Senator Bentsen. I anticipate doing that.

Mr. Eberle. And the Secretary of Commerce on Wednesday I think fundamentally here that this administration has made considerable progress, and we do have some very outstanding economic and commercial attachés at a number of our embassies.

One of the objectives and achievements of some of our trading partners at some of their embassies is economic, with politics and security as secondary goals. A country our size cannot do that. But what I think is important is that we do have, and it is the policy of this administration to put economic, security, and political objectives on an equal basis, and we have to keep trying to do that, and upgrade our commercial and economic attachés.

Senator Bentsen. I wish you would do that because I share that concern.

Mr. Eberle. I assure you we will.

Raw Material Shortages

Senator Bentsen. Mr. Ambassador, with the oil cartels that we have been facing and the incipient cartels we are beginning to see in other raw materials, we are experiencing a great change in conditions of supply. Many materials are now in relatively short supply, and it looks like this is going to be a long-term problem. What are we doing in the way of long-range planning in these negotiations to try to help assure long-term supplies of some of these raw materials?

Mr. Eberle. Let me try to put that in perspective this way. Access to markets and access to supplies are the opposite sides of the same coin. We have focused on one of our objectives in these negotiations to be sure that that issue is handled in two ways. First of all, we have a framework, a system, that will have a better guideline as to what you do when you have short supply, and then what actions countries can take if other countries do not respond within the acceptable range of

agreed access assurances. The problem right now is that we have a general rule in the GATT but it has never been used and it has never been defined or clarified, and that has to be done.

Second of all, we have proposed in this bill, following some of the suggestions of Senator Ribicoff and Senator Mondale, to be sure that we have the kind of response-ability—response, and I add the word "ability" to that—to react, so that if countries do not maintain access to their markets or their supplies in an open, fair, and equitable way that we can take the necessary quick response. I think you need both the incentive out in front to try to negotiate these rules and then you need the kind of international sanctions and the domestic management sanctions that can be taken if they do not. I think this will be very helpful.

I think before you came in I did point out that it would be a mistake to attribute to many other products aside from oil the same situation because each product is quite different, and I think as we pointed out in the case of bauxite even though the bauxite producers are all starting to get together we have at a pretty equivalent cost reserves many times over foreign supplies in alumina in Georgia, Wyoming, and Utah to replace imports on an immediate basis if they start to create problems. It is an investment problem, not a reserve problem. It is a different kind of situation.

The Trade Bill Export of Services

Senator Bentsen. Mr. Ambassador, the trade bill calls for a specific delegation of authority to the President to reduce barriers on commodities and manufactured products. But one of the major sources of revenue for us in our balance of payments in a nation that now has over 50 percent of its GNP in services is the export of services.

Now, in what way will the export of services, being such a valuable source of income to us, be affected by the negotiations?

Mr. Eberle. To the extent that it would fall within the trade area we think that this bill could and does encompass it. However, there is separate legislation that affects maritime, freight rates, for example, and other services that do not fall in this bailiwick. It is a very important problem to us. As you know, the disparities of shipment out of the United States as opposed to shipment into the United States is a serious one, but again one which is not covered here because there is separate legislation. The same thing is true in the aircraft landing rights. It is in another agency. Unfortunately, or fortunately, as the case may be, a number of those various service areas are covered by separate legislation and not covered here.

Now, we feel there are a number of areas which we should and probably can get at, such as the insurance area, with which you are familiar. We are watching this carefully but we are also recognizing that we do have some limitations within the law.

The EEC and Preferential Trade Agreements With LDC's

Senator Bentsen. I know that the European Common Market with its preferential trade agreements for developing nations has continued to increase the number—I am told that it might reach as high as 80 countries. With these, of course, come reverse preferences, working

for the benefit of the European Common Market and obviously, to our disadvantage.

To what degree are we going to be able to ameliorate the negative impact of these reverse preferences?

Mr. EBERLE. There are two or three different ways that the problem must be approached and, as you know, we have protested and are continuing to object to this program of the European Community. Insofar as these reverse preferences are concerned, we have a provision in the bill which will not allow us to grant generalized preferences to any developing country which grants reverse preferences to anybody else so that we can get at it that way.

Two, that as we lower trade barriers, particularly tariffs, that lowers the preferential rate; and, if we have the right on the management side to focus on a particular discrimination in a third market, we can then react to that. So I think we would have for the first time the kind of tools to get at this problem.

Now, having said that, because I am a somewhat frustrated negotiator on that particular issue because we have not made the progress that we would like, hopefully we can negotiate a better understanding with Europe and that would be our objective. But if we cannot, then we are provided the tools to deal with it.

Senator BENTSEN. Thank you very much, Mr. Chairman.

Senator HARTKE. Senator Curtis.

Senator CURTIS. Mr. Ambassador, forgive me for being late. In general, I favor this legislation. I think the administration's approach to this at this particular time is the right answer. I am sure I am influenced somewhat by what it has meant, what the present administration's trade and foreign affairs policies have meant not only to the peace of the world but to quite a number of agricultural commodities.

There are some mechanics in procedures that I am not entirely clear on. It has been my privilege to sit in on the formation of the legislation for trade agreements laws now for quite a while. I was 10 years on the House Ways and Means Committee when the trade agreements law first came in. The Executive was granted permission to reduce our tariffs by a certain percent, and then the law would be renewed and authorize him to give another piece of our protection away, and then we would renew it again, and we would authorize him to go a little lower.

AVERAGE TARIFF RATES BY COUNTRY

My question is this: From what point in rate schedules do foreign countries start to negotiate now?

Mr. EBERLE. From a tariff point of view, the European Community has an average common external tariff on dutiable industrial imports is around 8 percent. Canada's, as I recall, is about 14 percent; Japan's is about 11 percent. We are about 8½ percent across the board now.

Now, I have to note an exception in the variable agricultural levies in Europe, which apply on a different basis. They are not tariffs per se, but when you add those, then Europe is at least as high as we are if we start from an equivalent base. So we all are within those ranges today, and why it is important is that sometimes it is a tariff that holds back trade, and sometimes it is nontariff barriers.

Senator CURTIS. I am aware of that.

Mr. EBERLE. Sometimes it is a variable levy which the European Community claims is neither one, so we have a third area to talk about.

Senator CURTIS. Is it not true most of those countries can raise their tariffs without an act of their legislature?

Mr. EBERLE. Normally, yes. But if they have to have the act of their parliaments it is the same people that are negotiating with so it is not a problem.

Senator CURTIS. But what I mean is they can raise tariffs rather quickly, can they not?

Mr. EBERLE. I think——

Senator CURTIS. They are not faced with the same procedures if this Congress went back to write the tariff law like they wrote the last one, is that right?

Mr. EBERLE. That is correct, absolutely correct.

Senator CURTIS. And on rather short notice they can create a barrier, tariff or nontariff, is that not right?

Mr. EBERLE. Relatively short. Although if it is a bound-duty item they must notify the GATT and there is a procedure for that.

Senator CURTIS. Now, when you said our average duty was around 8 percent, how do you arrive at that average? Is that the average for all imports that come into the country, the dollar value?

Mr. EBERLE. No; it is on the dutiable items based upon a weighted average of trade. We go all the way up to very high tariffs in the 40-, 50-, 60-percent area.

Senator CURTIS. So you include in there our tariff rates on some things that we do not import any of or import very little, right?

Mr. EBERLE. Yes, but weighted. To reflect the relative importance of that import.

Senator CURTIS. What would be our average duty on the imports that actually come in?

Mr. EBERLE. It would be, on all industrial products—dutiable and duty free—that come in would be 6.1 percent.

Senator CURTIS. 6.1.

Mr. EBERLE. And that would compare with the EC average of 3.9, Japan of 5.7, and Canada, 6.4.

Senator CURTIS. You mean our tariffs are twice as high?

Mr. EBERLE. On all imports. There is more duty-free trade in other countries. They have more products which come in duty free.

Just to give you an example: We have duty-free trade at 28 percent of our industrial imports and the European Community is 51 percent.

Senator CURTIS. Now, the difference on that is they are importing something that they either cannot produce at all or cannot produce in the amount that they need?

Mr. EBERLE. That may be true to a degree, but let me take the next step with you. On the range of industrial tariffs of from 0 to 5 percent we have 36 percent of our business and, of course, the EC has only 13, so that it is a different kind of a structural problem the way their tariffs are formed from the way ours are. So you may be right. It is certainly true in Japan because of the high raw material content that they import.

Senator CURTIS. What is the average tariff charged by the EEC on manufactured goods?

Mr. EBERLE. Manufactured goods it would be on dutiable items 8.3 percent.

Senator CURTIS. What do we charge?

Mr. EBERLE. On dutiable items we would be 9.2.

Senator CURTIS. I wonder if there is something in those averages that I am missing out on.

Mr. EBERLE. Senator, I would be happy to submit for the record——

Senator CURTIS. I mean, not in a meeting of our minds.

Mr. EBERLE. The source of this information is a GATT tariff study which sets out how they average them and I would be happy to submit it for the record at this time so that——

Senator HARTKE. Let us put that in the record. We will put it in the record so we will have it.

[The information referred to follows:]

The four columns of averages on industrial products prepared by the GATT shown in the Finance Committee Staff Report on HR 10710 were calculated according to the following methods:

Simple Arithmetic Average is a simple (unweighted) arithmetic average of all most-favored-nation duty rates applying to tariff lines classified in a commodity category. It was calculated directly from national tariff lines.

Average Weighted by World Trade was calculated in two steps. First, a simple (unweighted) arithmetic average of tariff lines, the same as the simple arithmetic average was calculated for each BTN heading in a category. Each of these arithmetic averages was then weighted by total (most-favored-nation, preferential and intra-area) combined imports of the industrial countries covered by the study in calculating an average for a category.

Average Weighted by Country's Own Trade is a weighted average of all duty rates classified under a category using most-favored-nation imports of the country concerned at the national tariff line level as the weighting pattern.

Average Weighted by Country's Own Trade and World Trade was calculated in two steps. First, a weighted average based on a country's own most-favored-nation imports up to the BTN heading level was calculated. The results in individual BTN headings were then weighted by the total (most-favored-nation, preferential and intra-area) combined imports of the industrial countries covered by the study in calculating an average of each category.

There are two basic types of averages presented. First, a simple average, in which individual tariff lines are averaged without any weights, and, secondly, a weighted average in which individual tariff lines are assigned a relative importance corresponding to the amount of imports entering under them. The unweighted average confers the same importance to all tariff lines and may therefore assign to an item a weight which would be disproportionate to that item's importance in trade, even under free-trade conditions. It thus tends to result in higher average figures than an averaging procedure which uses weights derived from the actual or potential trade importance of the item in question.

An average weighted by the country's own imports, on the other hand, tends to overstate the importance of tariff lines subject to low duties. This results from the fact that the higher rates are usually more restrictive, sometimes even prohibitive, and, consequently, the relative amount of imports entering under them understate their actual importance in trade.

It is also important to note that the results of the two averaging procedures differ according to the degree of detail in individual country schedules. The discrepancy between the simple and the weighted average is generally small in the case of a relatively homogeneous tariff; considerable discrepancies between the two averages occur, on the other hand, in the case of tariffs containing large numbers of very high and very low rates in the same product group.

TABLE 1.—AVERAGE POST-KENNEDY ROUND MFN TARIFF LEVELS ON INDUSTRIAL PRODUCTS

[In percent]

	All products	Raw materials	Semi-manufactures	Manufactures
All items:				
United States	6.1	2.7	5.1	8.4
European Community	3.9	.3	4.7	8.0
Japan	5.7	3.2	6.2	12.0
Canada	6.4	.4	9.4	6.6
Dutiable items:				
United States	8.5	5.7	8.3	9.2
European Community	8.0	3.4	8.5	8.3
Japan	10.7	11.2	7.6	12.3
Canada	14.1	6.4	14.0	14.3

TABLE 2.—PERCENTAGE DISTRIBUTION OF TOTAL MFN INDUSTRIAL IMPORTS BY RANGES OF TARIFF LEVELS

	Duty free	0.1 to 5	5.1 to 10	10.1 to 15	15.1 to 25	Over 25
United States	27.9	35.8	21.1	5.2	6.0	3.9
European Community	51.1	12.9	24.8	8.0	3.1	----------
Japan	46.8	7.6	17.2	23.7	4.1	.7
Canada	54.4	2.0	16.4	11.0	14.7	1.5

Source: GATT tariff study. The averages are calculated by weighing each country's 1972 duty rates by corresponding 1967 imports (1970 imports for Canada). The results are not strictly comparable since the averages for the United States and Canada are based on f.o.b. values, averages for the European Community and Japan are based on c.i.f. values.

Note: The Office of the Special Representative for Trade Negotiations subsequently submitted the following information:

Senator Curtis and Ambassador Eberle referred in the above colloquy to Tables 1 and 2. These tables show the 1972 tariff rates, weighted on the basis of 1967 imports, except for Canada, the figures for which are based on 1970 imports. As Table 1–A of the Committee Summary and Analysis of the Trade Reform Act shows, comparative tariff levels for the major trading nations do not differ significantly between the 1967 and 1970 import weghts.

Senator CURTIS. How recent is it?

Mr. EBERLE. 1972.

Senator CURTIS. It was published in 1972. When did their studies take place?

Mr. EBERLE. These are based on the weighting of each country's 1972 duty rates by 1970 trade.

Senator CURTIS. 1970 trade?

Mr. EBERLE. Right.

Senator CURTIS. So it will soon be 4 years obsolete now.

Mr. EBERLE. The tariff rates have not changed since that time. The trade may have shifted somewhat. But we took the weighting on 1972 tariffs but the actual trade on a 1970 base.

Senator CURTIS. I do not want to be argumentative, I just want to understand it.

Mr. EBERLE. Of course.

Senator CURTIS. In arriving at the average tariff in Japan it does include the vast amount of raw materials that they want so desperately and charge no tariff on, is that right?

Mr. EBERLE. The answer is yes, that is right.

Senator CURTIS. And that is true of the other countries?

Mr. EBERLE. The raw material rates are all low. That the rates on raw materials, of all raw materials, are relatively low. But there are some dutiable items in a country like Japan on raw materials where it brings their average up to almost as high as their rates on all industrial products of 11 percent.

Senator CURTIS. Mr. Ambassador, the staff has given me a table here which appears on page 80——

Mr. EBERLE. 80*.

*Committee on Finance committee print entitled "Summary and Analysis of H.R. 10710."

Senator CURTIS [continuing].—of this summary analysis, dated February 26, 1974, and on agricultural products the United States has an average tariff of 15.1 percent; Canada, 9.6 percent; Japan, 40.6 percent; the European Community, 16 percent; and the United Kingdom, 10.8 percent.

Mr. EBERLE. I see. That is the column which has the simple arithmetic average for these tariffs. What you look for is the weighted average which brings those down substantially.

Senator CURTIS. Yes, but what it does it put the United States as the lowest. Ours is 4.8.

Mr. EBERLE. I think that is correct on agricultural imports.

Senator CURTIS. Canada is 5.7, Japan is 27.4, European Community, 8.8–8.4, the United Kingdom 5.

Mr. EBERLE. That is absolutely right. We do have the lowest tariffs on agricultural imports of any country, and I would point out that the footnote in your staff's excellent preparation notes that the European Community tariff of 13.9 does not include the variable levy.

Senator CURTIS. For the European Community?

Mr. EBERLE. That is right. Those come on top, and range from 20 to a 100 percent.

Senator CURTIS. In other words, our tariffs are lower on agricultural products and agricultural products are one of the very redeeming parts of our foreign trade, is that not right?

Mr. EBERLE. That is right, and that is the reason why we think it is so essential to have this negotiation with these people who have higher tariffs.

Senator CURTIS. Now that same table separates the dutiable products which I assume leaves out bananas and coffee and things of that sort, and the average rate in the United States is 8.5, Canada 9.9, Japan 39.7. European Economic Community 13.9. But that does not include the variable rates, is that right?

Mr. EBERLE. That is correct.

Senator CURTIS. And the United Kingdom 9.9. There again, we are the lowest, are we not?

Mr. EBERLE. That is correct. I would point out, the United Kingdom now would fall within the European Community.

Senator CURTIS. That is correct.

Would it take a long explanation so that our record would be complete, of what you mean by a variable duty?

Mr. EBERLE. Variable levy.

Senator CURTIS. By illustration or otherwise, in reference to the United Kingdom or Economic Community.

Mr. EBERLE. Let me submit to you a one-page insert. It will take time to explain how it works because it varies from day to day. It is an arbitrary point as against the world market price and I would rather submit it to you in writing.

Senator CURTIS. Could you give us the tariff equivalent of the variable levy?

Mr. EBERLE. What happens is that it depends on the world market price, and it differs by various products, and can run from zero up to 100–150 percent of the world price.

Senator CURTIS. And oftentimes it runs 40 to 120 percent.

Mr. EBERLE. Oh, yes, absolutely.

Senator CURTIS. And that is true of agricultural products.

Mr. EBERLE. It is probably zero today, I can check.

Senator CURTIS. That is true of agricultural products.

Mr. EBERLE. Not all of them. Soybeans are not under the variable levy and we have a favorable position both in the EC and Japan on that.

POSSIBLE SACRIFICING OF CERTAIN INDUSTRIES?

Senator CURTIS. I know this proposal gives unemployment compensation which would seem to indicate that it was anticipated that we would sacrifice certain industries or parts of industries or products. What criteria will you follow in determining whether or not an industry will knowingly be damaged to the extent that their workers and possibly the industry, too, will seek these benefits?

Mr. EBERLE. Well, let me start by saying that we need this kind of provision whether we have negotiating authority or not because that happens on a daily basis.

Senator CURTIS. Yes.

Mr. EBERLE. What we want to look at here is whether you have an industry that may have a rather sudden impact from imports and you must determine whether that is having an abrupt market impact and, if it is, we have provided that there can be relief provided, not through adjustment assistance, but through temporary tariff safeguards at the border.

Senator CURTIS. Increased protective tariffs or other things?

Mr. EBERLE. Tariffs, quotas, orderly marketing agreements, whatever it may be because it may be for some reason the industry, either fairly or unfairly, is being taken advantage of or can become competitive if they get help of these kinds, so we look at that first.

On the other hand, there may be a segment of that industry that simply is not going to be competitive and I think probably the best example of this lay in the radio electronic field where suddenly some items just simply could not be made competitively here and some production moved abroad, but now is coming back again. Our technology was brought up to date and there was a transition period here. But it is that kind of approach that we will be taking and are taking today. We do not plan to "sacrifice" industry.

Senator CURTIS. Will products made by one or two manufacturers get the same consideration if it is a widespread industry?

Mr. EBERLE. No; we are looking for an overall impact on an industry because, as I tried to explain, because it may not be the import problem that causes it if it is only one or two manufacturers within an industry.

Senator CURTIS. I mean, if the whole industry only constituted a few, one or two, manufacturers.

Mr. EBERLE. Absolutely, they would get the same treatment.

Senator CURTIS. For instance, I am not asking for solutions at this time but just throwing it out.

Mr. EBERLE. Surely.

Senator CURTIS. In Lincoln, Nebr., we make the Cushman scooters and golf carts, and the Polish similar product undersells them by about $200 a unit and, of course, they are a low-cost vehicle to start with. Yet, there are not many factories in the country that make that sort of a product, and so its effect on the overall economy of the country

and the overall employment may be small but in a particular spot it is very serious.

Mr. EBERLE. If the industry consists of one plant they will get the same treatment as if it got 200 plants and if that is a problem we would be happy to consider that one.

VARIABLE LEVIES

Senator CURTIS. Yes. This one can be answered for the record. On the variable levy, I think I understand it, but would you spell out two or three concrete examples and date them?

Mr. EBERLE. All right.

Senator CURTIS. As to when they existed, where the variable levy was reasonably low and still was there and one where it went high and a little explanation of the time and the circumstance and the world price which brought it about, about three illustrations.

Mr. EBERLE. I would be happy to do it.

Senator CURTIS. Thank you very much, Mr. Chairman.

[The information referred to follows:]

The basic problem facing U.S. agricultural exports to the European Community is the EC's use of trade devices to support its internal farm pricing system. The most important and most troublesome of these devices is the variable levy. This is an import charge to keep prices of imported products at least as high as domestic EC prices, eliminating price competition from outside countries. The variable levy is applied on about one-quarter of U.S. agricultural exports to the enlarged EC. These include feed and bread grains, beef, veal, pork (excluding variety meats), lard, dairy products, poultry and eggs.

In the case of grains, threshold price which is the minimum import price into the community serves as the base for the calculation of variable levies on imports. Every working day the Commission, the executive arm of the EC, collects price quotations for each grain on international markets and adjusts those prices to what they would be if the grain had been of a standard EC quality and had been offered for delivery, c.i.f. Rotterdam. The lowest such adjusted price for each grain is then deducted from the corresponding threshold price. The difference is the variable levy, which is then collected on all imports of that grain regardless of the actual price of the particular shipment. In this way, the EC eliminates both price and quality competition from imports. Imports are effectively limited to those quantities and grades that cannot be supplied by domestic production. Community preference is absolute. "Seasonal" competition is also eliminated by raising threshold and intervention prices monthly during the year to cover storage costs for domestic grain.

In the case of long grain rice, the import levy—related to the difference in prices of EC grown varieties—is generally set by price quotations for cheaper medium grain varieties, and is higher than would apply if a true long grain standard were used.

	Drum wheat	Corn	Husked rice long	Lard[1]
Levies (dollars per metric ton):[2]				
Aug. 1, 1972	70.96	49.33	135.17	114.10
Sept. 1, 1972	68.56	45.94	95.54	114.10
Feb. 1, 1973	34.76	26.15	44.37	108.99
Mar. 1, 1973	52.17	46.08	0	121.11
Threshold prices[3]	141.58	108.08	251.99	

[1] Levies on lard imports, set quarterly, are derived from the price of feed grains.
[2] Converted from units of account at UA 1 equals $1.08571 before Feb. 13, 1973 and UA 1 equals $1.20635 after Feb. 13, 1973.
[3] Marketing year 1972-73.

Senator HARTKE. Mr. Ambassador, time is late but let me say to you that I think all members of this committee share a very high regard for your intelligence and your ability in the trade field.

I must hasten to add that I do not know of any one man that I disagree with so totally in this critical field of trade. Our decision should be to disagree agreeably. I disagree with your policies, but I do respect your professional ability.

Second, I would like to say for the record, that the staff work which has been done in this field has been effective, accurate, and objective. I want to compliment Mr. Best for the excellent job he is doing. Don't you agree, Mr. Ambassador?

Mr. EBERLE. I certainly do.

BROAD DELEGATION OF AUTHORITY TO THE PRESIDENT

Senator HARTKE. Do you agree that the administration's trade bill is the broadest delegation of legislative authority to the executive which has ever been requested in the history of the United States?

Mr. EBERLE. No. I would have to say that it is the broadest delegation of joint participation with Congress that has been asked for.

I do not think you can call it a sole delegation because it does have congressional review and participation in it.

Senator HARTKE. But of such a limited nature as to be practically ineffective.

The second thing which disturbs me is that the President is under rather severe attack. Impeachment proceedings are being considered in the House of Representatives, and here we are preparing to delegate extensive authority to that President whose ability to lead is being challenged.

Do you feel that that is a proper exercise of the separation of powers doctrine under such circumstances?

Mr. EBERLE. The answer is yes, I do, and let me explain why.

First of all, on tariffs, there was more authority, advance authority, granted on tariffs in the Kennedy round than this bill proposes at this time.

Senator HARTKE. But Mr. Kennedy was not under the pressure of such severe charges at that time. I was a cosponsor of that bill and I certainly am not a cosponsor of this measure.

Mr. EBERLE. The point is there was more authority granted in that than today. Two, on nontariff barriers, negotiated agreements on these must come back for congressional review and veto by either House of Congress, so I do not think it is the kind of delegation you suggest. Then, too, if we are successful—and I hope we will be in having Congress participate with us during these negotiations—it is the kind of discussion that gives you the opportunity for input and if you disagree, you have the chance to veto.

IMPORT PROTECTION

Senator HARTKE. I am one of the sponsors of the Burke-Hartke bill and I have been dealing with specific trade legislation since 1971 and I do have some disagreement with you on that. But the point still remains that the administration's trade bill does delegate unprecedented authority to the executive for imposing quotas or eliminating them,

for imposing tariffs or eliminating them, and for renegotiating GATT. You do not have to accept that conclusion. It is also the conclusion of the working population of America and the two most organized labor groups, the AFL-CIO and United Automobile Workers. This latter group is now asking for import protection from small imported automobiles.

Do you think that the union people are blind, therefore, to their own best interests?

Mr. EBERLE. Not at all. I would only suggest to you that our approach and several of these unions' approach are not that totally dissimilar Let me try to explain it to you this way, if I can. The placing of quotas on a calculated percentage of imports goes across the board on all products whether there is a problem or not. This bill, by applying the import relief section on a very much more liberal standard than in the past, will allow those industries to quickly come in and get the kind of relief they want when there is a problem.

We are facing that problem issue this way, and the difference is that our trade is only 6 percent of our GNP, and exports somewhere around 12 percent of our total manufactured productive capacity. In other countries, if they respond by an automatic quota it can react against all of our other exports whereas if we have this product-by-product approach, we do not risk that kind of reaction against the United States. That is why we think we can solve the same problem when there is injury without having our other exports—12 percent of our productive capacity—attacked and precluded from the world markets. It is a two-way street.

Senator HARTKE. The only difference between you and organized labor is that you intend to follow the quota procedure too, but through a different mechanism?

Mr. EBERLE. Only when there is injury and a problem which cannot be solved through other means.

SETTLEMENT OF DEBTS

Senator HARTKE. I think there would be deep apprehension if people really understood what you propose to do in this legislation. Senator Byrd, in his questioning of you, did not take full credit for his own participation in the amendment which was adopted by the Senate. If you will recall, the Byrd amendment was attached to the debt ceiling bill. The Byrd amendment would have required congressional approval of any settlement on debts owed to the United States by foreign countries. The administration opposed the Byrd amendment and it was deleted in the House. Is that a fair statement? The administration opposed it?

Mr. EBERLE. That is my recollection.

Senator HARTKE. The House deleted it because of administration opposition.

Let me give you the facts of the case. The lend-lease debt was about $10.2 billion, if I recall correctly. The agreement which was executed provided for $48 million unlimited payment, with the rest conditioned upon the restriction that there must be most-favored-nation treatment granted, is that right?

Mr. EBERLE. Correct.

Senator HARTKE. Under the circumstances that agreement was executed without any request of or authority or without consultation with the members of this committee or of the Ways and Means Committee, is that not true?

Mr. EBERLE. I do not know. I did not participate in it.

Senator HARTKE. Yes; I will tell you that is true.

Do you remember the Moynihan agreement. Pat Moynihan is from Jefferson, Ind., just for the record. I was talking with Dr. Moynihan recently and he told me that the administration just wiped out $2.4 billion in commodity credit loans which had been granted to India. That was completely eliminated without congressional authority. The Byrd amendment would have prohibited both of those actions, and would have required you to come to the Congress.

The administration has not acted in good faith on these matters. How can we expect the administration to act properly if we grant them all this authority.

RIGHT TO EMIGRATE AMENDMENT

Let me give you another example. The Jackson-Vanik amendment was passed in the House, right?

Mr. EBERLE. Right.

Senator HARTKE. It prohibits credit to a country which discriminates against citizens desiring to emigrate.

Since the House acted, $120.8 million in Export-Import Bank credit to the U.S.S.R. has been approved. There are currently pending credits of $211 million for the Soviet Union—$180 million of which will directly aid Occidental Petroleum. It seems to me that this administration has had an attitude of near contempt for the Congress.

Given these facts, the chances of eliminating the Jackson-Vanik amendment are probably minuscule. It is obvious that the Executive is paying absolutely no attention to the action in favor of the amendment taken by the House of Representatives. There are 80 sponsors of the Jackson amendment in the Senate.

POSSIBLE PRESIDENTIAL VETO OF BILL

Let me ask you this question: Would the President veto the bill with the Jackson-Vanik amendment in it?

Mr. EBERLE. I think you have to take a look at that at the particular time. He certainly has indicated on several occasions that at this point this would be a very serious matter for him, and one could certainly not discount a veto.

Senator HARTKE. The President publicly stated that he would veto the trade bill with the amendment. Can we believe him?

Mr. EBERLE. I think you can, yes.

Senator HARTKE. If this is true, then we ought to call a halt to these hearings right now. We have 150 witnesses to hear from and if the President intends to veto, the Finance Committee is simply performing an exercise in futility. Don't you agree Mr. Ambassador?

Mr. EBERLE. Well, let me give two responses. First of all, I think we have talked with Congress on a number of these and I can tell you the Eximbank, as I tried to explain, made most of these on a very preliminary commitment basis and is very cognizant of Con-

gress concern over this, and, two, as I tried to say, and Secretary Shultz has said, we think there can be some reformulation which could bring about a resolution of the Jackson-Vanik amendment that would be acceptable.

Therefore, I would not be here if I did not think that we need this bill for the United States, and Congress needs it to participate in international trade negotiations and that if we do not participate in these international negotiations the people who are going to suffer are the workers and your constituents right back at home because that means jobs if we lose exports.

Equitable Trade Treatment Needed

Senator Hartke. All of us agree that we need more world trade. It would be preferable to get it on an equitable basis. Even previous administrations have not done this. During President Johnson's administration, the Canadian automobile agreement was put into effect without consulting Congress. President Johnson tried to buy Canada's participation in the Vietnam war by making economic concessions to them which were very damaging to our balance of payments.

The Kennedy round too was merely a propaganda victory at best. Is that fair?

Mr. Eberle. I think there was some real legitimate progress.

Senator Hartke. If you examine the negotiations in detail and I have, you will note that nothing was done until 30 days before the final report had to be filed. They finally agreed that some progress had to be made, so they eliminated all the consideration of nontariff barriers which are at this moment much more effective barriers to trade in the international marketplace than tariffs. Only tariffs were reduced. As one of the members indicated here, we reduced tariffs on products which were not being shipped. The delegation to trade negotiating authority bore sparce results. Now you want the same authority. Little progress was made then, how can we expect a better showing from this administration?

Mr. Eberle. I would like to come back and simply say that I concur that there were a lot of problems in the prior negotiations that I cannot speak to other than to what my office is doing. We are committed to this kind of cooperation, I think we have proven it in the textile agreement, working with Congress and with industry. I think we have been able to come up here and say, "You tell us how you want to work with us," and that is an open ended challenge.

Senator Hartke. I tried to tell you but you would not follow my advice.

Mr. Eberle. This is how to work with you, not how to draft a bill.

Senator Hartke. I just thought that effecting legislation was my job.

Mr. Eberle. Well, certainly.

Senator Hartke. From 1971 until last year, the Hartke-Burke bill was the only trade legislation before Congress. I still think it is the only comprehensive bill which treats the major problems confronting the working men and women in this country.

You pointed out the tremendous skills we have in the aerospace industry and how this has contributed to our balance of payments. Selling airplanes abroad has been favorable to our balance of trade and

balance of payments. Yet, at this moment jobs in aerospace are 33 percent under the 1968 peak and are expected to fall another 3 percent by June 1974. Jobs totaled 949,000 in June 1973 and there will be 32,000 fewer in June 1974. Scientists and engineers have been the hardest hit. Is that not right?

Mr. EBERLE. Yes, sir.

Senator HARTKE. And no relief is being provided for them under the Adjustment Assistance Act.

Mr. EBERLE. Well, there is no import competition either. The import adjustment assistance would come in through import competition.

Senator HARTKE. You call this a great success for adjustment assistance when there is so much unemployment and so little aid to these people?

Mr. EBERLE. There are $4 billion a year in experts.

Senator HARTKE. The question is American jobs. $4 billion dollars in experts evidently is not creating jobs.

Mr. EBERLE. But without exports the unemployment would be a great deal higher if you eliminate $4 billion.

Senator HARTKE. That is the argument of the multinational corporations. They raised a $1 million fund to defeat my bill. They don't agree with me, and I don't agree with them.

In 1972 the largest 500 industrial multinational firms employed 136,960 fewer workers than in 1969 and even though in 1972 they had $113.1 more in sales than in 1969. The real question is whether this Government is going to be a government of the people or a government of the giant multinational corporations and that is the question which concerns me very deeply.

1974 BALANCE TRADE FORECAST

Mr. Ambassador, what is the anticipated trade surplus or deficit for 1974, excluding oil?

Mr. EBERLE. One's crystal ball at this time of the year is never very good. I think one could anticipate—on a CIF basis—the positive balance in our trade in 1974.

Senator HARTKE. What is the forecast?

Mr. EBERLE. At this game, you know it is too early——

Senator HARTKE. A calculated guess then. I mean you have to have some type of forecast. You do have economists who formulate these kinds of projections?

Mr. EBERLE. I think the best thing to say is that it would be a positive balance on a CIF basis.

Senator HARTKE. I didn't hear you. Did you give a dollar value?

Mr. EBERLE. As I say, I am not in the projecting business. I will defer that to Secretary Dent tomorrow.

Senator HARTKE. I intend to ask him tomorrow. Would you agree that Mr. Walter Levy is a leading authority on oil?

Mr. EBERLE. Yes, sir.

Senator HARTKE. According to him the projected deficit would come to about $14 billion in 1974 because of the increased cost of oil.

Mr. EBERLE. For the United States?

Senator HARTKE. For the United States, $14 billion.

Mr. EBERLE. I would simply have to say to you that that number seems high based on my knowledge, but I would defer that to Mr. Simon. I can find out for you.

Senator HARTKE. I am going to read to you, Mr. Ambassador, from Mr. Walter Levy's study of exploding world oil costs, of January 4, in which he says in Item 11:

For the United States total exports are estimated at about $70 billion in 1973, total imports about $69 billion for a net trade surplus of $1 billion. United States oil imports FOB in 1973 are estimated at some $7 billion. United States oil imports costs amount to $21 billion in 1974.

Now, Item 12, which is the conclusion which I have just given you:

The indicated 1974 level of U.S. oil import costs represented a $14 billion increase over 1973. This would be equal to 20 percent of total imports last year. An expansion of imports of this magnitude would be enough to swing the United States trade balance from a surplus of $1 billion to a deficit of $13 billion, in other words a $14 billion loss. Such a deficit would exceed the United States gold and foreign exchange holding of $4 billion as of October 1973.

And that is why I say to you that some place along the line somebody had better get their hands on the trade handle and start worrying about putting this country back on its feet.

Mr. EBERLE. That is the very thing we are trying to do. That impact—assuming that it is right, and he is more of an expect than I am, but the numbers I have seen do not go that high—he omits, Senator, the fact that some of that money is going to come back into the United States and the impact will not be of that magnitude. As a matter of fact, the numbers that the OECD protected for 24 countries, if their increased costs as Senator Ribicoff indicated this morning, $40, $50, $60 billion, come out to a net to those countries, including the United States, of $25 billion, because of the reflow of funds.

The point I want to come back to here is that if we don't have the kind of international institutions that can work on these problems on the trade side the United States then will have to decide on its own what it is gong to do and that could be a very painful kind of a process where we do not have the kind of opportunity to continue to build up our exports to help pay for this in the long run and that is going to impact an awful lot of jobs.

TAXATION OF FOREIGN INCOME

Senator HARTKE. But you see that takes you over into another field which my bill addresses itself to and yours does not, and that is the question of taxation. You cannot approach trade matters without considering the tax structure applicable to foreign income.

Let me ask you, if you would agree with the following statement: Since the multinational oil producers have convinced some of the oil exporting countries to charge them a tax in place of a royalty, they are benefiting via our present tax laws? For example, the greater their costs, the more substantial the tax break they receive.

Mr. EBERLE. Well, I have no doubt that there will be some changes, as Secretary Shultz has indicated, in this area, that he has recommended some changes. As you know, there were some specific tax provisions submitted along with the trade bill when it went up last April. The House decided that it would handle that as a separate matter and, as of today, we think that is the proper way. There are some of these issues that should be addressed.

Senator HARTKE. Frankly, I think the President has adopted part of the Burke-Hartke bill provisions on foreign taxation in his energy message. If the oil companies should have to, why isn't it right to go ahead and apply it to all the manufacturing industry? As much as I decry the oil companies bleeding the U.S. consumer white while we are sitting in line trying to get gasoline, I think it is just as fair to complain about ITT which paid in 1972 an effective corporate tax rate of 1 percent according to Congressman Vanik's statistics. (ITT argues their tax rate was 9.5 percent—hardly a spectacular amount.) General Motors, afraid of antitrust suits, paid an effective rate of 44 percent in 1972. I am not giving General Motors any special accolade but somebody has got to make up the difference and I think it is high time that the multinational corporations paid their fair share of taxes.

General Motors is a manufacturing company, and the corporation paid a 44.6-percent effective tax rate in 1972. Juxtaposed to this are the oil companies, Texaco, Mobil, Exxon, and so forth, and they averaged an effective rate of 2 to 4 percent. If you are going to deal with trade correctly I would hope that you would somehow get your fingers into those things which heretofore have been sticky with oil.

Mr. EBERLE. We do get our fingers in a lot of these issues but I also know when you try to get as complicated a bill when you keep adding everything into it you will never get it through because it does cover so many subjects.

Second of all, I don't want to duck the tax question but I am not a tax expert. But I would call your attention that we do have a lot of tax treaties and that there are some very important things that can be solved in this area and again it is part of the world of international negotiations and we ought to have more of these so that the country can be treated on a more equal basis. If there is no tax treaty there can be more inequities.

On the other hand, you can also get to the point where you can tax at 110 percent.

Senator HARTKE. I understand that. I am not interested in overtaxing people. I just want fair taxation. I do have another quick question. With the two devaluations the United States is supposed to be more competitive. West Germany today has a higher wage rate than the United States and as a result of their revaluation of their mark and our two devaluations of the dollar, and still their No. 1 export is manufactured goods. Our primary exports are, like a developing country, agricultural products and raw materials. Why don't we have a comparative advantage in manufactured products?

It is late, and I do want to let you go. Thank you very much for joining us today and discussing with us the vital issues of international trade.

Mr. EBERLE. Thank you.

[Mr. Eberle's prepared statement follows:]

PREPARED STATEMENT OF AMBASSADOR WILLIAM D. EBERLE, U.S. SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

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INTRODUCTION

The overall purposes of the Trade Reform Act are to stimulate United States economic growth in the context of strengthening our global economic relations through fair and equitable market opportunities and more open and nondiscriminatory world trade. The Act as passed by the House of Representatives—H.R. 10710—consists of three categories of authorities to achieve further trade liberalization and to deal with basic foreign and domestic trade policy problems.

First, the authorities contained in Title I enable full participation by the United States in the comprehensive multilateral trade negotiations under the GATT launched in Tokyo in September, 1973. These authorities aim to achieve further trade expansion through the reduction or removal of tariff and nontariff barriers to trade and to develop a more open, nondiscriminatory, and equitable international trading system through reform of present trading rules and institutions. Title I also contains various authorities to provide for more effective management of the trade agreements program.

Second, Titles II and III contain improvements of present laws and programs to facilitate orderly adjustment by domestic industries, workers, and firms to increased import competition and to deal with unfair foreign trade practices in a more adequate and timely fashion.

Third, Titles IV and V contain authorities designed respectively (1) to expand our trade relations and opportunities with countries on a nondiscriminatory basis; and (2) to promote the economic development of developing nations by providing them greater access to the benefits of an improved international trading system.

Throughout the Trade Reform Act there are procedural safeguards to ensure exercise of the authorities in the United States national interest. It also provides for greater participation by and fuller partnership and cooperation between the Executive branch, the Congress, and the private sector in establishing the goals and reviewing the implementation of United States foreign trade policy.

The Congress last granted the President major authorities in the trade field under the Trade Expansion Act of 1962. The principal negotiating authority expired on June 30, 1967. It has been 12 years, therefore, since the Congress has articulated clear guidelines and directions through comprehensive trade legislation in this highly important area of United States foreign and domestic policy. The need for broad new trade legislation to enable United States leadership and participation in international cooperative efforts to meet the important and urgent economic challenges of our time has probably never been greater.

Many significant and dramatic changes have taken place on the world economic scene in the decade since the Congress last approved major trade legislation. Partly through our efforts and with our strong support, basic structural changes have occurred in the world economy as Europe and Japan have become major economic powers and strong competitors with the United States. Rapid developments in technology, communication, and transport have resulted in more efficient production and distribution of an ever-increasing number of goods. Improved allocation of productive resources, more and better employment opportunities, higher incomes and standards of living, and the availability of a wider choice of products for consumers are attributed at least in part to the tripling of world trade in the past decade. Increased prosperity has both created and resulted from mass markets, rapid flows of capital and investment, and a growing dependence on foreign markets for exports and on foreign suppliers for imports.

The present new era of global interdependence among nations, shared leadership, and rapid change also means that the various elements of each nation's domestic and foreign policies are increasingly interrelated and of significant impact internationally. Trade policy has important political as well as economic ramifications at home and abroad. Trade policy is linked with other areas of domestic and foreign economic policy, such as monetary and fiscal policies, investment, and foreign aid. These various elements of economic policy are,

in turn, interrelated with and have important ramifications on overall foreign policy and security objectives.

None of these areas can be treated any longer in separate or isolated fashion. A country's chief economic concern is still to provide more and better jobs and sufficient supplies to meet demand at reasonable and stable prices for its own citizens. But global interdependence requires that national domestic and foreign policies at the same time be carefully balanced with multilateral responsibilities and obligations and the need for collective discipline in order to avoid international economic and political frictions.

Significant progress was made in liberalizing barriers to trade through multilateral trade negotiations in the past decade. Some important trading problems have also arisen, however, which demonstrate the significant consequences of domestic and foreign economic policies on international relations, and the need for authorities to devise appropriate remedies. Regional trading blocs have proliferated in recent years, often with discriminatory elements disadvantageous to the trade of the United States and other non-participating countries. The relative importance of nontariff trade barriers and unfair trading practices have also increased.

The uneven distribution of trade benefits among various segments of domestic economies have often given rise to protectionist sentiment in the United States and abroad to impose damaging import restrictions. In recent months attention has shifted from the traditional problems of achieving more open and nondiscriminatory foreign market access to the other side of the coin—maintaining availability of adequate supplies of essential materials at reasonable prices, and the threat of "new protectionism" in the form of both export and import restraint measures as pressures increase on balances of trade and payments.

The resort to measures, often of a unilateral and ad hoc nature, outside the context and framework of the international trade and monetary systems is partly a reflection of the fact that these rules and institutions have no kept pace with the major and rapid changes on the world economic and political scene in recent years. The principles and practices which date from the post-World War II era when the United States was the predominant economic, financial, and political power have become outmoded and far less effective in dealing with present-day problems and challenges.

Clearly new principles and rules of behavior as well as reform of the present rules and institutions are required, and with even greater urgency now. The pressing problems of supply shortages and price increases require new policies and methods of international economic management and rethinking of old ones. This process can best be facilitated by utilizing the trade negotiations based on the authority of the Trade Reform Act. Supply problems have redoubled the need for major trade legislation. The authorities contained in the Trade Reform Act are more relevant today than even a few months ago.

First, the Trade Reform Act provides authorities which are flexible enough to be a vehicle for dealing with the new problems of supply access and export restrictions as well as with the traditional problems of market access and import barriers. For example, the authority under section 102 to negotiate agreements to remove or reduce nontariff barriers and other trade-distorting measues is broad enough to encompass export restraint measures as well as import barriers and export subsidies. Sectfon 123 authorizes the President to suspend import barriers when supplies are inadequate to meet demand at reasonable prices. Section 301 is flexible enough to permit retaliation by the United States in the form of increased duties or other import restrictions against unreasonable or unjustifiable foreign export controls and embargoes. Fulfilling our international commitment to participate with other developed countries in the granting of generalized tariff preferences would help to improve the climate for cooperative efforts generally with developing countries, which are a major source of essential raw materials.

Additional modifications of the Trade Reform Act to make it even more responsive to supply problems could be an important contribution of the Senate. The Administration is willing to discuss and work with the Committee on proposals already made by Senators Mondale and Ribicoff, and is also proposing some amendments of its own as illustrations of proposals which could be useful.

Second, while headline attention may have shifted at the moment, the traditional problems of reducing trade barriers which impede market access and insulate significant areas of economies from the adjustment process have not disappeared. In fact, the new problems of supply assurance and stability at

reasonable prices and the older problems of market access and elimination of obstacles which hinder efficient allocation and use of productive resources are inextricably interrelated as two parts of the same equation.

Short supply situations reinforce the need for international negotiations on import barriers and export subsidies. There is an even greater danger today than in the 1930s of "beggar-thy-neighbor" policies—the new form of protectionism—whereby countries not only impose export restraint measures on some goods while promoting exports of others, but face strong domestic pressures to impose or increase import restrictions on other goods in order to finance the increased cost of importing fuel and raw materials.

Increased access to foreign markets is vital both in present circumstances and in the longer run. Present and potential trade restrictions will become more serious, particularly with the continued proliferation of regional trading arrangements, increasing environmental standards, and regional harmonization of laws and practices which can have trade-distorting effects unless equitable international principles and solutions are devised to govern their form and evolution.

Furthermore, the need for the provisions in the Trade Reform Act not directly related to the multilateral trade negotiations is even more urgent under present circumstances. For example, present laws and programs are inadequate to facilitate timely and orderly adjustment by domestic industries and workers adversely affected by competition even from some imports at present levels. Enactment of Title II and the revisions under Title III of present statutes which safeguard against unfair foreign trade practices are also necessary to reduce new domestic pressures for import protectionist measures. Normalization of trade relations with Communist countries is just as important now in pursuit of an overall detente policy. Our international commitment to developing countries to help achieve their economic development needs through our participation in granting preferential access to developed country markets is not yet fulfilled.

Third, it is vital that there be an ongoing international process of negotiation where new problems can be placed and dealt with in the broader perspective of global interdependence. Unless it is demonstrated that the process of multilateral negotiation and a cooperative approach to solving old and new international economic problems can and will work, the imposition of unilateral trade restraints and the seeking of competitive bilateral arrangements to ensure distribution and control of available supplies are likely to escalate. This backsliding could not only halt progress toward reform of the international economic system, but could disrupt international trade flows, create inefficient allocation of resources at reasonable prices, and threaten the structure and fabric of the international economic system itself.

The multilateral trade negotiations in the GATT, as well as the Energy Conference, the World Food Conference, and ongoing talks to reform the international monetary system, are important elements in the process of seeking viable cooperative solutions to global economic problems. The GATT consists of 83 members, both developed and developing countries. Its primary orientation in the past has been on problems of market access and the reduction of import barriers. It provides for solving difficult problems which have been apparent for years, for example, subsidies, government procurement, standards, and international safeguards. Specific GATT rules and the institution itself also provide, however, a basis and a workable framework and forum for multilateral discussion and formulation of principles, guidelines, and procedures to deal more effectively with short supply problems on the basis of international cooperation. Reform of current GATT principles is also necessary to conform the international trading system with present-day realities, including the need for revision of GATT provisions on export restraint measures.

The Trade Reform Act is an essential prerequisite for maintaining and intensifying the momentum for progress in the multilateral trade negotiations. The tools and authorities in the Act reinforce and complement overall efforts to achieve a more rational and equitable economic system to deal with both old and new problems. Without the Trade Reform Act, the United States will lack both negotiating authority and credibility in the GATT and in other international negotiations to exercise leadership in bringing about effective multilateral cooperation and discipline in international trade.

To be able to conduct effective negotiations on international trade issues, the Congress must grant the authority and set the guidelines under which it is to be exercised to set and to achieve our trade policy objectives in the overall national interest, full cooperation and partnership between the Executive and Legislative branches and between each of them and the public are essential. The requirement

has resulted in new provisions being added by the House for Congressional oversight and public participation in the exercise of the authorities under the trade agreements program. On the whole, these are very thoughtful and useful additions to the program.

The House of Representatives has greatly narrowed the scope of Executive discretion originally requested by the Administration. The present version of the Trade Reform Act reflects a concern throughout for an increased Congressional and public role. It provides various mechanisms to ensure a substantial increase in the direct participation of the Congress in the formulation, conduct, and review of United States trade policy. It also ensures opportunities for all domestic public interests and private organizations to bring their ideas, information, advice, and concerns to the attention of those responsible for executing the legislation.

Many of the authorities in the Trade Reform Act are a continuation of the historic trade agreements program. In these as well as in other areas where the authorities break new ground, the bill passed by the House emphasizes:

1. Specific limits on and standards for the use of the authorities delegated;
2. Timely notices and reports to Congress, and public notices of actions contemplated and taken;
3. Required consultations with the Congress and interested persons, particularly when permanent changes in trade restrictions are contemplated;
4. Participation by members of Congress in the United States delegation to international trade negotiations;
5. Numerous public hearings and other public procedures in advance, including a public advisory committee mechanism for trade negotiations and investigations by and advice of the Tariff Commission;
6. Time limits on the use of the authorities and specific requirements that the Congress must extend actions taken by the President if they are to remain in force; and
7. Special procedures, including a new Congressional veto procedure, to facilitate decisions by the Congress to disapprove or to terminate Presidential actions.

Never before in the history of the trade agreements program has the participation of the Congress and the public in the process of execution and administration of the authorities granted the Executive branch been specified in such detail. The authorities are subject to a degree of Congressional oversight and control and public scrutiny that are unprecedented. The substantive limits and the elaborate procedural requirements are based on a valid need for Congressional and public participation, but in some instances they may prove administratively burdensome. A balance must be struck between meaningful and appropriate safeguards to ensure that the authorities are utilized in the overall United States national interest, and the need for sufficient flexibility in administration to avoid the hamstringing of effective action or the taking of actions which are unwise.

The present version of the Trade Reform Act is in most respects consistent with purposes for which the original Administration proposals were designed. The Administration is pleased overall with its outcome in the House, in fact in many areas we recognize that the Committee on Ways and Means made a number of improvements in the original bill. The Administration urges prompt passage of this legislation in the Senate so that further progress can be made in the multilateral trade negotiations and the urgent work of solving the trading problems we face internationally and the improvement of trade laws domestically can proceed. There are a few areas, however, where it is important that improvements be made in the bill. The Administration is also suggesting some other modifications of a substantive and technical nature for further improvements.

The following testimony submitted for the Senate record explains the various provisions of the present bill in detail by title and section, the reasons for the provisions, and legal interpretation by the Administration as part of the legislative history of the Act. Attachment A contains all of the amendments, including proposed statutory language, suggested by the Administration. Amendments listed in Attachment A of a substantive nature are also discussed in the appropriate sections by the testimony. Attachment B outlines the relation of the present bill to the current short supply situation.

TITLE I—NEGOTIATING AND OTHER AUTHORITY

Title I contains the authorities necessary to conduct and implement the results of the new round of comprehensive multilateral trade negotiations to achieve expansion of world trade on an open, equitable, and nondiscriminatory basis. These authorities encompass access to supplies as well as access to markets. The Administration suggests an amendment to the purposes of the Act under section 2 to provide explicit reference to supply access as an objective.

The provisions of Title I can be divided into three basic categories: (1) authorities to enter into trade agreements with foreign countries during the next five years for the reduction or removal of tariffs and other barriers to trade, and procedures for implementing these agreements; (2) a negotiating mandate from the Congress for the reform of international trading rules and practices, other trade authorities to help deal effectively with more general trade-related economic problems, and authorities to manage and administer the trade agreements program more effectively and efficiently; and (3) procedures and mechanisms to ensure increased participation by and liaison with the Congress and the public in the formulation and implementation of trade agreements.

A. BASIC NEGOTIATING AUTHORITIES (SECTIONS 101–103)

Chapter 1 of Title I contains the basic authorities necessary to conduct the multilateral trade negotiations, namely, (1) concerning *tariffs*: Authority, subject to specific limits, to eliminate, reduce, impose, or increase tariffs, or to continue existing rates of duty or duty-free treatment pursuant to trade agreements entered into with foreign governments during the next five years; and (2) concerning *nontariff barriers*: A mandate urging the negotiation of agreements with foreign countries during the next five years to reduce or eliminate nontariff trade barriers, and a new optional method for implementing such agreements through a Congressional veto procedure.

The Kennedy Round of trade negotiations resulted in overall reductions of about 35 percent in tariffs on industrial goods by the United States and the other major participants. These and previous reductions through trade negotiations, reduced the significance of tariffs overall as barriers to trade. However, overall tariff averages obscure the fact that duties continue to afford significant protection and are highly trade restrictive on many individual products and product categories in the United States as well as in foreign countries. Of particular concern for United States manufacturing export interests are the relatively high tariffs of our major non-European trading partners, namely, Japan, Canada, Australia, and New Zealand.

As tariffs have been reduced, other trade barriers and trade-distorting measures have become relatively more important, partly as a result of regional trading arrangements and increasing concern with environmental considerations. An inventory prepared in the GATT of identifiable nontariff barriers and other trade-distorting measures in effect in member countries consists of more than 800 notifications, which have been organized into 27 different categories. Substantial preparatory work for the multilateral trade negotiations has already been done and is continuing in the GATT and OECD on a number of these nontariff barriers. Unlike tariffs, these measures are highly diverse and heterogeneous in nature and are usually imbedded in domestic laws or administrative practices both here and abroad.

Many nontariff barriers limit import competition directly and many are framed or administered to give a significant competitive advantage to domestic producers. Some measures restrict imports but were instituted for health, safety, or environmental reasons. Others, such as subsidies, are widely used to stimulate exports, or have been imposed to limit exports of particular products. Some nontariff barriers probably do not have a major trade impact. Some others restrict trade more than tariffs or have reduced or nullified benefits from tariff reductions. In some cases nontariff barriers effectively shelter and insulate substantial areas of production and trade from intended effects of the adjustment process, including price and exchange rate changes. Nontariff barriers can also arise in the area of services, for example when freight rate disparities in shipping conferences alversely affect our trade or when restrictions on direct investment or on distribution facilities effectively limit sales of United States goods.

The need for further reduction or removal of tariffs and nontariff barriers is particularly important with respect to the increased competitive disadvantage for United States exports inherent in the expanded membership, the free-trade-area associations, and the special preferential trading arrangements of the European Community. These types of arrangements will probably extend to nearly 80 countries and dependent territories in Europe, Africa, and the Mediterranean and Caribbean areas by 1975. As a result, United States and other third country exports face higher import barriers in these countries than the goods of participating countries. Some of these arrangements with developing countries also involve the granting in return of "reverse" preferential treatment by those countries to the products of the European Community, resulting in discrimination against the products of third countries.

The reduction of tariffs and nontariff barriers is the only long-term effective means to reduce the discrimination faced by United States exporters as a result of these arrangements. Further liberalization of foreign trade barriers would also encourage American industry to remain in the United States rather than to relocate abroad in order to compete in foreign markets. The need for multilateral trade agreements to reduce trade restrictions and to institute more adequate international trading principles is even greater today than just a few months ago. The efficiencies of production and resource allocation and the greater assurance of adequate supplies which result from exporting products on the basis of comparative advantage are of increased importance today because of the rising costs of importing energy and raw materials.

The multilateral trade negotiations under GATT auspices, launched in Tokyo in September 1973, will be broader in scope than previous trade negotiations which focused primarily on tariffs. As indicated in the Tokyo Declaration, the negotiations aim to deal with the whole complex of barriers affecting agricultural and industrial products, including raw materials, and with multilateral safeguard mechanisms. The negotiations will be conducted "on the basis of the principles of mutual advantage, mutual commitment and overall reciprocity."

Major trade agreements authority under Title I of this Act is required to provide the credibility necessary for United States leadership in demonstrating that international cooperation through multilateral negotiations can work effectively to deal with new as well as with old problems. For these negotiations the President requires not only bargaining leverage but flexible tools which enable use of the negotiating approaches and techniques most suitable to obtain maximum possible foreign tariff reductions and equitable solutions to nontariff barriers. One essential bargaining tool for gaining concessions from our trading partners is a willingness on our part to negotiate reciprocal concessions with respect to our own trade barriers. The United States must be able to do its part in maintaining access to our market and supplies, which is of equal concern to our trading partners.

1. Tariffs (sections 101 and 103)

Since 1934 the Congress has periodically delegated to the President authority to reduce or increase United States tariffs within specified limits pursuant to trade agreements with foreign countries. The last grant of such authority under the Trade Expansion Act of 1962 expired on June 30, 1967. Since that time the President has not had authority to implement trade agreements insofar as they affect tariffs or other domestic laws.

Section 101 of H.R. 10710 continues the precedent by renewing the basic authority of the President to enter into and implement trade agreements with foreign countries for a period of five years. The grant of authority for this extended period of time is essential to ensure maximum participation and commitment by other countries to reduce their trade barriers. It also enables the United States to prepare for, fully participate in, and complete the multilateral trade negotiations.

Section 101 of the Trade Reform Act authorizes the President to reduce tariffs existing as of July 1, 1973 up to the following amounts in conjunction with trade agreements:

July 1, 1973 rate of duty	*Percentage reduction authorized*
5 percent or under	100 percent
Over 5 percent, not over 25 percent	60 percent
Over 25 percent	75 percent, but not to a rate of duty below 10 percent

The Administration proposes an amendment to section 601 to expressly include within the definition of "modification" the conversion of specific rates of duty into their ad valorem equivalents in order to apply the different levels of tariff authority for the purpose of negotiating trade agreements under section 101.

Section 101 also authorizes increases in duties (or the imposition of duties where none exist currently) up to a level of 50 percent above the rate existing on July 1, 1934 (Column 2 rate) or to a rate which is 20 percent ad valorem above the rate existing on July 1, 1973, whichever is higher. For example, a duty of 5 percent ad valorem with a corresponding Column 2 rate of 10 percent could be increased up to 25 percent ad valorem under the Trade Reform Act, as compared to 15 percent (i.e., 50 percent above the Column 2 rate) under the Trade Expansion Act. Greater tariff increase authority than under the previous authority is needed since Column 2 rates of duty are low or non-existent in some cases, particularly in the case of specific rates (duties assessed on a unit of quantity, e.g., cents per pound rather than on value). Specific rates were based on 1930 prices and have declined in incidence as a result of price increases over the years.

The authority to increase tariffs would not be used to raise tariffs across-the-board. Any duty increase requires the agreement of our trading partners and the acceptance of a greater inflationary impact on the domestic economy. This authority is required, however, for use in special circumstances, for example, if tariff relationships in a particular product sector warrant the harmonization of duties among major countries involving tariff increases as well as decreases.

The upper limits on tariff increases would not apply where other types of trade barriers are converted to fixed tariffs pursuant to trade agreements on non-tariff barriers. In these cases no limit is necessary because the maximum permitted is the level which converts nontariff trade measures to rates of duty affording substantially equivalent levels of protection. Section 101 authority cannot be used to convert nontariff barriers to tariffs under the veto procedure of section 102. This can be accomplished solely under section 102(g).

Where an increase, decrease, continuation, or imposition of a rate of duty requires the subdivision of an existing classification, such subdivision is authorized under section 101. The same authority was available under the Trade Expansion Act.

The Trade Expansion Act of 1962 authorized tariff reductions of up to 50 percent below then existing duty levels, with several very significant exceptions. The limitation did not apply to rates of duty of 5 percent or below, to trade agreements with the European Community on agricultural products, or to cetrain tropical agricultural and forestry products. Duties could be eliminated in these cases. In addition, the Act authorized the elimination of duties on products for which the United States and the European Community, of which the United Kingdom was then expected to be a member, accounted for at least 80 percent of world trade.

Consequently, the tariff-cutting authority provided under section 101 is not overly extensive in comparison with the substantial authorities granted under the Trade Expansion Act, particularly given the fact that overall tariff levels were about 50 percent higher prior to the Kennedy Round of trade negotiations than they are today. Present United States tariff levels on dutiable industrial goods average only about 8 percent.[1] Furthermore, substantial bargaining leverage is necessary for the United States to obtain meaningful reductions in the discriminatory aspects of preferential trading arrangements and in the competitive disadvantage to United States exports resulting from tariff elimination within the expanded membership and association agreements of the European Community.

The tariff authority in H.R. 10710 provides the flexibility necessary to permit the use of various types of negotiating techniques such as those discussed in the pre-negotiating preparations of the GATT and the OECD. These methods include tariff reductions by a fixed percentage across-the-board, various forms of tariff harmonization among countries overall or on particular products, item-by-item negotiations, a sector approach encompassing all trade restrictions applied to a particular product category, or a combination of these techniques.

Section 101 could be used to reduce tariffs where United States import barriers are impeding inflows of essential materials in short supply. The concession by

[1] Comparable averages for our major trading partners as a result of reductions in the Kennedy Round are about 8 percent for the European Community, 11 percent for Japan, and 14 percent for Canada.

foreign countries in return could be in the form, for example, of a commitment to maintain supplies or not to impede their exportation.

The exercise of the tariff authority is subject to a number of limitations and procedural requirements. First, while higher-level tariffs can be reduced by larger percentages than lower-tariff tariffs, duties above 25 percent cannot be reduced below a level of 10 percent ad valorem. This floor guarantees affected domestic industries a minimum level of tariff protection roughly comparable to present average duty levels on all industrial products.

In addition, the staging provisions of section 103 require the phasing in of total tariff reductions by no more than 3 percent ad valorem per year or by fifteen equal annual installments, whichever is greater. For example, total reductions in tariff levels up to 25 percent ad valorem (maximum reductions of 15 percentage points) could be completed within five years. Minimal reductions of 10 percent or less of an existing duty (e.g., a reduction from 50 percent to 45 percent ad valorem) are exempt from the staging requirements. The purpose of small percentage point annual tariff reductions under the staging provisions is to provide a reasonable period for adjustment by domestic producers and workers to increases in import competition.

Products subject to import relief or national security actions would be exempted from tariff reductions, as required under section 128. In addition, negotiations will be preceded by a number of procedural requirements. Tariff Commission advice, public hearings, liaison and consultations with the private sector (required under sections 131–135), and the participation of Congressional advisers in the negotiations (provided under section 161) assure that the broadest possible range of domestic and international interests will be taken fully into account in the exercise of the negotiating authority.

Sufficient guidance in defining and reviewing United States economic interests should be provided under these procedures to enable the use of the authority under section 101 to lower United States tariff barriers. The benefits from reducing our tariffs are not only the expanded trade opportunities abroad granted in return, but also the greater supply and choice of products, employment opportunities, and more efficient production generated at home through increased trade.

2. Trade barriers other than tariffs (section 102)

Section 102 of H.R. 10710 provides for the first time an explicit Congressional mandate for the President to negotiate and enter into agreements with foreign countries for the reduction or removal of nontariff barriers and other trade-distorting measures.

The provisions of this section fulfill a two-fold objective. First, a specific mandate from the Congress to seek agreements which involve the overall reduction or removal of nontariff barriers provides greater assurance to foreign countries that the United States is serious in its intention to seek solutions to nontariff barriers as a major aim of the multilateral trade negotiations. Second, a new Congressional veto mechanism (particularly applicable to cases in which nontariff barrier agreements will require modification or extension of domestic statutes and regulations) provides a solution to the complaint of our trading partners that United States negotiators lack credibility because of the Constitutional division of authority between the Executive's role as negotiator and Congress' authority over foreign commerce. It enables prompt yes or no answers to the implementation of proposed trade agreements.

Section 102(a) contains a statement by the Congress that nontariff barriers and other trade-distorting measures are reducing the growth of foreign markets for United States exports, diminishing the intended mutual benefits of trade concessions, and preventing the development of open, nondiscriminatory international trade. The statement also urges the President to take all appropriate and feasible steps within his power to reduce or eliminate such barriers, including the full exercise of United States rights under international agreements. The President is also urged to use the authority granted him under section 102(b) to enter into trade agreements with foreign countries during the next five years to reduce or remove existing nontariff barriers and other trade-distorting measurse.

Various types of nontariff barriers and other trade-distorting devices which could be covered by agreements under section 102 are contained in the GATT inventory of nontariff barriers and are illustrated in the background briefing materials on the Trade Reform Act published by the House Committee on Ways and Means. The inventory and the illustrative list, which was referred to frequently by the Committee during its consideration of the Act, includes

citations of various export-restraint measures, as well as export-stimulating measures such as subsidies, among other types of nontariff barriers. The Administration proposes an amendment to section 102(a) to make it explicit that the denial or limitation of access to supplies constitutes a nontariff barrier within the scope of the negotiating authority under section 102. This will provide a clear Congressional endorsement of the negotiation of nontariff barrier agreements on supply access.

Section 102(b) refers to "existing barriers to (or other distortions of) international trade". With respect to tariffs, a country is free to raise or impose duties to any level at any time unless the rate of duty or the duty-free treatment is "bound." The absence of a "binding" acts as a barrier to trade and is a valid subject for a trade agreement. The absence of any obligation by a country to refrain from imposing nontariff barriers or other trade-distorting devices in the future can similarly constitute a barrier to trade. Consequently, the Administration proposes an amendment to section 102(b)(1) to make it explicit that section 102 includes authority to enter into agreements which involve an obligation to refrain from imposing nontariff barriers or other trade-distorting measures where none presently exist.

In order to induce countries to enter into nontariff barrier agreements, it may be necessary to apply the benefits of a nontariff barrier agreement only to signatories. There is little incentive for other countries to become signatories if they can receive all the benefits without incurring any of the obligations, merely by failing to adhere to the obligations themselves. Some nontariff barrier agreements by their very nature would not be capable of being applied to all countries. Consequently, the Administration proposes an amendment to section 102(1) to clarfy that benefits under nontariff barrier agreements may be applied, solely to signatory countries, if desired.

An agreement under section 102 could involve the direct reduction or elimination of the nontariff barrier itself. Alternatively, an agreement could involve the conversion of a United States nontariff barrier to a rate of duty affording a substantially equivalent level of protection. Such an agreement could also include the reduction of elimination under section 102 of that portion of the resulting tariff which represents the conversion of the nontariff barrier. The limitations of section 101 would not apply to the tariff resulting from conversion, thereby making the treatment comparable to the reduction or removal of nontariff barriers without conversion.

An agreement under section 102 cannot provide, however, for the reduction or removal of the rate of duty existing prior to conversion. Section 101 may be used for this purpose, subject to the limitations under that section and to staging. In addition, Congress must be specifically advised of any intention to reduce these duties at the time the nontariff barrier agreement is submitted under the veto procedure.

Given the great variety and complexity of nontariff barriers and other trade-distorting measures, their embodiment in domestic legislation in all countries and their varying impact on trade, there is no single negotiating approach to their solution. Nor is it possible to predict in advance the various types of nontariff barrier agreements which may be entered into or the domestic statutes and regulations which they may affect. Consequently, the Trade Reform Act cannot provide a single appropriate method in advance for implementing such agreements.

Section 102 does stipulate, however, certain procedural requirements which must be followed in the implementation of nontariff barrier agreements entered into under the Act and provides a Congressional veto mechanism as an alternative to existing methods for implementation. The President is to consult with the House Committee on Ways and Means and the Senate Committee on Finance as a first step in connection with the negotiation of any nontariff barrier agreement under section 102. It is the Administration's understanding that the main purpose of the consultations is to determine the ways in which such an agreement would affect domestic statutes or regulations and consequently, whether further Congressional action is required or appropriate before the agreement can have domestic effect.

It is the intention only to affect those portions of the law through nontariff barrier agreements which have an impact on trade. It is also intended to keep to a minimum the changes in existing law that would be necessary under the veto procedure. If the President implements a trade agreement where his Constitutional authority or authority delegated by the Congress was an insufficient basis for such action, there are two remedies which are traditional in our system of

government. Either of the other two branches of the Federal Government can overturn his action—the judiciary by declaring the action null and void, and the Congress by enacting subsequent legislation. This latter course is open to the Congress whether or not the President's action exceeds his powers.

The Act preserves the traditional methods available for implementing nontariff barrier agreements: (1) Submission of the agreement to the Senate as a treaty; (2) negotiation of an agreement on an ad referendum basis and its submission to the Congress for approval through implementing legislation; and (3) the Constitutional or existing statutory authority of the President to negotiate and implement agreements in the limited number of cases which do not require additional legislation. The prior consultations with the Congress could indicate that one of these existing methods is sufficient or preferable to the use of the Congressional veto procedure.

The new optional Congressional veto procedure is particularly designed for and applicable to implementing nontariff barrier agreements which prior consultations with the appropriate Congressional committees determine will affect domestic statutes or regulations. It may also be used when further Congressional action is appropriate even though not required.

The nontariff barriers and other trade-distorting measures listed in the GATT inventory could be the subject of agreements implemented under the Congressional veto procedure. The veto procedure could be used to implement agreements with respect to both practices which currently burden or restrict trade and the obligation not to impose barriers or other trade-distorting devices in the future.

It is expected that agreements relating to the American Selling Price and the Final List methods of customs valuation, for example, would be subject to the Congressional veto procedure. This procedure could also be used to implement an agreement involving elimination of the wine gallon/proof gallon basis of assessing duties and taxes and agreements on subsidies and countervailing duties, for example. As noted in the Committee on Ways and Means report assurances have been given by the Administration that adoption of a new overall system of customs valuation or of the Brussels Tariff Nomenclature would be the subject of affirmative Congressional approval through the legislative process.

The Congressional veto mechanism consists of three steps which must be followed within the time limits specified for any agreement submitted under the procedure to be implemented, and for any necessary or appropriate proclamations or orders to take effect.

1. The President must give both Houses of Congress at least 90 days advance notice of his intention to enter into a nontariff barrier agreement, and must publish the notice in the Federal Register. The purpose of the advance notice is to ensure consultation between the Executive branch and appropriate Congressional committees on the subject matter of the agreement. It also affords the Congress an opportunity to hold hearings and to influence the content and form of the agreement before it is concluded, if it wishes.

2. After entering into the agreement, the President must submit a copy of the agreement and of any proclamations and orders to both Houses of Congress. He must also submit an explanation of how the proclamations and orders affect existing law, and a statement of why the agreement serves United States interests and why each proclamation and order is necessary or appropriate to implement the agreement.

If the agreement involves conversion of a nontariff barrier to a fixed tariff, a copy of the Tariff Commission advice as to converted rates of duty which afford substantially equivalent levels of protection must also be submitted on or before submission of the nontariff barrier agreement. In addition, if reduction in the Column 1 rate of duty existing on the articles prior to the conversion are proposed, have been agreed to, or have taken place under section 101, a statement of these section 101 reductions must also be submitted on or before submission of the nontariff barrier agreement. The duty reductions under section 101 may take place earlier, simultaneously with, or later than submission of the agreement under section 102. As a result of these procedures, the Congress will have full and complete information on all proposed tariff modifications on the article before it considers a nontariff barrier agreement. These provisions also ensure that further tariff changes on the article cannot take place subsequent to Congressional consideration of a nontariff barrier agreement under the veto procedure without its advance knowledge.

3. The nontariff barrier agreement and the proclamations and orders enter into force only if within 90 days after their submission neither House of

Congress disapproves the agreement by a majority of those present and voting. If either House disapproves the agreement, it may be resubmitted to the Congress with new proclamations or orders without the first requirement of a 90-day minimum advance consultation period.

Sections 151 and 152 outline the detailed Congressional disapproval procedures. These sections are similar to provisions in the Reorganization Act of 1940. Sections 151 and 152 would be enacted by the Congress as part of the rules of the House of Representatives and the Senate with respect to resolutions of disapproval. One of the requirements under section 151 is the referral of disapproval resolutions relating to nontariff barrier agreements under section 102 to the committee or committees in the House and Senate having jurisdiction over the subject matters covered by the proclamations and orders submitted with the agreement.

The veto procedure meets two objectives. First, it provides a mechanism whereby the Congress can play a continuing and important role in shaping the agreement through close consultation with the Executive branch before the agreement is concluded and through subsequent oversight and review. Second, it increases the ability of the President to negotiate agreements in the nontariff barrier field by expediting and clarifying the procedures for implementation. Foreign governments have expressed little interest in negotiating future agreements unless there is a reasonable degree of assurance that such agreements once negotiated will in fact be implemented by the United States and that uncertainties inherent in the present implementation process can be reduced.

Section 102(c) stipulates that a principal United States negotiating objective with respect to trade agreements on non-tariff barriers is to attain competitive opportunities for our exports in developed country markets equivalent to those accorded imports of like or similar products in our market for agricultural products and for product sectors of manufacturing, taking into account all trade barriers (including tariffs) affecting that sector. Negotiations on nontariff barriers under section 102 are to be conducted on a product sector basis to the extent feasible and to the maximum extent appropriate to achieve this objective and the broader objectives under section 2 of the Act.

While agriculture would be one sector, it is intended that equivalent market access also be sought for major agricultural products. Industrial products sectors would be as broad in scope as appropriate to accomplish the negotiating objectives. They would be defined by the Special Representative for Trade Negotiations with the Secretaries of Commerce or Agriculture, and in consultation with the Advisory Committee for Trade Negotiations established under section 135 and interested private organizations. The President must include a sector-by-sector analysis of the extent to which equivalent competitive opportunities have been achieved, in his statement accompanying the transmittal of each trade agreement to the Congress after it comes into force (a transmittal required by section 162(a)).

Limiting the negotiations too closely to a sector basis could cause damage to the overall goals of the Trade Reform Act (section 2) and of the trade negotiation. We assume that section 102(c) of the House bill is not intended to have this result, but we would like to state some possible difficulties we foresee by way of explaining the concern that exists concerning section 102(c)

Nontariff barriers differ greatly both in form and in their impact on trade from sector to sector. Furthermore, many nontariff barries apply to a number of different products or to many or all product sectors. Consequently, the possibility of arriving at mutually beneficial sector agreements will be the exception rather than the rule. Tradeoffs of concessions between product sectors, including between agriculture and industry, are necessary to maximize negotiating results for all sectors.

Continuing work in the GATT and the OECD on possible solutions to nontariffs barriers has demonstrated that agreements on the practices themselves, such as international codes or guidelines, are more likely to be the appropriate approach and more acceptable to governments than separate sector agreements when a nontariff barrier applies to more than one sector. Across-the-board solutions would usually be considered self-balancing. Since without international agreement there are few limitations on current and future use of nontariff barriers to trade an overall solution has an unlimited an nonquantifiable trade value to all parties bound by that solution.

An approach tilted too strongly toward sector negotiations could result in least common denominator results in the negotiations. To conduct negotiations on all products on a sector basis, as opposed to sector negotations, as a com-

plementary approach in certain areas, risks each participant selecting only those areas of export interest to them for concessions, while maintaining existing barriers in more import snesitive sectors. Increasing pressure on balance-of-trade positions as a result of the energy crisis and raw material supply shortages enhances this risk.

United States negotiators should not be expected to expend negotiating leverage or to make trade concessions to obtain equivalent market access abroad in product sectors for which the United States does not have an actual or potential export interest in the short or long term. Otherwise, there is the likelihood of not obtaining foreign concessions in other product areas which are of greater value to United States trading interests.

Flexibility in the choice of techniques for conducting the negotiations in both tariff and nontariff barriers is essential, therefore, for maximum achievement of the negotiating objectives and to provide the bargaining leverage necessary to obtain foreign concessions in areas of significant United States export potential. A sector approach may well be most appropriate at least as a complementary technique in certain product areas, particularly those in which major trading countries have similar trade liberalization objectives. The specific product areas in which this approach is most appropriate could be determined through the advisory committee mechanism established under section 135.

There is some ambiguity in the provisions of section 102(c) as presently drafted which we would hope to see changed in the Senate. Our understanding of an appropriate interpretation of this language as it now stands, however, is as follows:

1. A principal goal, but not the only principal goal of the Trade Reform Act and the trade negotiations is the "sector-equivalence" requirement defined in section 102(c)(1). The goals of section 2 of the bill are also principal goals, however. "Equivalence" is to be measured by looking at all the products in a sector together, and judging the overall competitive opportunities within that sector, not on a product-by-product basis. Equivalent competitive opportunities, however, do not necessarily signify equal or identical treatment in all countries on all products within a sector. Different levels and types of barriers may be equal in their trade restrictiveness or the same levels or types of barriers may afford different degrees of protection.

2. Broad discretion to define sectors is granted to the Special Representative for Trade Negotiations and the Secretaries of Commerce or Agriculture as appropriate, following consultation with public advisory committees.

3. The sector-equivalence objective of section 102(c)(1) along with the objectives expressed in section 2 of the Act, are to guide the negotiators in selecting negotiating techniques, but the provisions of section 102(c) are not intended to limit the negotiators to product sector negotiations if sector negotiations are not well-suited to achievement of the objectives.

4. The requirement of section 102(c) that nontariff barrier negotiations be conducted on a sector basis "To the maximum extent appropriate . . ." and "to the extent feasible . . ." is not intended to prevent opening the negotiations on an across-the-board basis. Negotiating techniques could include linear tariff negotiations and generic nontariff barrier negotiations on barriers that apply to many sectors, such as government procurement, standards, subsidies.

5. We understand that the determinations of appropriateness and feasibility are to be made by the United States negotiators. This interpretation is necessary to avoid the danger of negotiating arguments being advanced by foreign governments on the basis of their interpretations of United States laws.

6. Section 102(c) is not a "sector-reciprocity" measure which would require equal reductions of barriers within a sector, but is a "sector-equivalence" measure looking to the status of market opportunities that would prevail at the end of the implementation of the whole negotiation. Specifically, as was explicitly recognized in the House Committee on Ways and Means report, "negotiations may take place across sectoral lines with tradeoffs of concessions between sectors, including between agriculture and industry. . ."

7. It is recognized that there will be cases where achievement of "equivalence" within a sector would "cost too much" in terms of concessions which the United States would have to grant, in relation to other better export opportunities which the United States could obtain with that portion of its "bargaining power." In such cases United States negotiators would make their decision on the basis of the broader purposes of the Act.

The Administration, which will be charged with the responsibility for negotiating under the authorities of the Trade Reform Act, would like the opportunity to

make some suggestions regarding section 102(c), so as to avoid conflict between achieving the goal under section 102(c) and maximizing the achievement of the goals in section 2 and to prevent it being a negotiating tool in the hands of foreign government negotiators against the United States. For example, dropping paragraph 2 of section 102(c) is a change that would help avoid some of the problems of this section. We are prepared to discuss this and other proposals with the

B. OTHER AUTHORITIES TO MANAGE TRADE AGREEMENTS POLICY (SECTIONS 121–128)

Chapter 2 of Title I contains various provisions related to the management of trade agreements policy. Some relate to modifications of trade barriers under certain circumstances and subject to specific limitations. Other provisions relate to reform of existing international trading rules and practices. Some are new provisions to provide more explicit and flexible authority to deal with economic problems which are broader in scope than strictly trade matters. Others are implicit in existing law but should be clarified and made more explicit. Finally, some of these authorities enable more efficient and effective "housekeeping" in the day-to-day operation of the trade agreements program.

1. Revision of the GATT (section 121)

Section 121 recognizes the need for reform of some existing international trading principles and practices and for the addition of new rules in some areas where they are presently inadequate in order to bring the world trading system and institutions up to date and into conformity with present-day circumstances. The section directs the President to seek certain revisions of the GATT to strengthen it as the basis for the international trading system. In particular, the President is directed to take action as soon as practicable to obtain:

1. Revision of the GATT decision-making machinery to more nearly reflect the balance of economic interests;
2. Revision of GATT Article XIX into a truly international safeguard mechanism;
3. Extension of the coverage of the GATT Articles to trade practices which presently are covered inadequately or not covered at all;
4. Development of international fair labor standards and procedures to enforce them in the GATT;
5. Revision of the GATT Articles on the treatment of border adjustments of internal taxes to ensure their trade neutrality; and
6. Specific recognition in the GATT Articles of import surcharges as the preferred means to handle balance-of-payments deficits when import restraint measures are required.

As indicated in the Committee on Ways and Means report on H.R. 10710, some of these proposed changes may take time to attain and others may prove extremely difficult to negotiate. Some, in fact, may be impossible to negotiate without a bargaining cost to the United States which would be exorbitant.

Section 122(a), as presently stated, is directed in most cases toward revision of individual Articles of the GATT. In many cases, methods other than formal amendments to the GATT Articles, such as supplementary agreements, protocols, or cords, either in conjunction with or separate from the GATT, may be a more practical and acceptable means of change internationally and would accomplish the same objectives. Amending the GATT is often difficult and requires concurrence by many nations which do not have an interest in the particular measure.

If an international agreement must take a particular form, for example the revision of a GATT Article itself, foreign countries may use this as a pretext to refrain from entering into agreements which are in the best interests of the United States but which may not fulfill the Congressional directive in every particular. A detailed directive can also pose difficulties if an international agreement could be reached but it is not in a form that is consistent with the best interests of the United States.

Consequently, the Administration proposes an amendment of section 121(a), which provides a negotiating mandate from the Congress with respect to reform of the international trading system which allows greater flexibility in the means for achieving the stated goals. The amendment includes each of the six objectives contained in the current version of section 121(a). The Administration also suggests an amendment to add a seventh objective which focuses attention on the need for more adequate international rules and procedures to deal with problems of supply access and supply shortages.

Section 121 also authorizes an annual appropriation of funds to cover the United States share of the expenses of the GATT organization. The United States adhered to the GATT in 1947 by executive agreement under the authority of the Tariff Act of 1930, Section 350, as amended. The United States' contribution to the GATT budget has been funded under a residual-category appropriation to the Department of State for international activities for which no provision has been made for United States participation by treaty, convention, or special Act of Congress.

Section 121(b) would place United States participation in the GATT on a normal basis and would enable the Department of State to request funds from the Congress for this purpose under its appropriation for contributions to international organizations. The United States assessed contribution for GATT expenses was only 15.45 percent or $1.1 million in 1973 as compared to 25 percent or $7.5 million for the OECD, for example. The contribution is relatively small in view of the importance of the functions and work under the GATT organization.

2. Balance-of-payments (section 122)

Section 122 provides more explicit authority and criteria than stated under present law to apply trade measures temporarily as one means to help deal with serious and fundamental international balance-of-payments problems.

A major United States objective in the current negotiations for international monetary reform is to achieve a more effective adjustment process. This process should avoid the emergence of large and persistent payments imbalances experienced in the past and reduce the likelihood that trade measures would be used for balance-of-payments purposes. Should the need arise, however, the United States should have the tools available, including temporary use of trade measures if necessary, to achieve and maintain international payments equilibrium. More explicit authority to take action in the trade field for this purpose may in itself encourage the development of a more effective international adjustment mechanism.

Use of the Trade Expansion Act and prior trade agreements legislation for the imposition of a surcharge is limited to a maximum of the Column 2 rate of duty for each commodity, thereby effectively precluding uniform application. There is no satisfactory authority to reduce trade restrictions in a balance-of-payments surplus situation. It would also be difficult under present law for the United States to participate effectively in an international cooperative effort to facilitate world payments equilibrium through the use of import restraints.

In August, 1971 the President utilized the authority under the Trade Expansion Act to terminate partially prior trade agreement proclamations as the basis for imposing an import surcharge. No specific standards exist under that authority to govern the action taken. There was no fixed statutory ceiling on the amount of the import surcharge which could have been imposed uniformly on all commodities or a limit on the time it could have remained in effect.

Section 122 of the Trade Reform Act remedies these types of defects and specifies strict standards and limits on the President's discretion in exercising the authority. It authorizes the President to impose a temporary import surcharge of no more than 15 percent ad valorem or temporary import quotas to deal with the following specific balance-of-payments *deficit* situations:

1. 1. A "large and serious" United States balance-of-payments deficit, which is substantial over a period of time and likely to continue in the absence of correction action;

2. To prevent an "imminent and significant" depreciation of the dollar in foreign exchange markets, but not to alter long-term trends in foreign exchange rate; or

3. To cooperate with other countries in correcting an international balance-of-payments disequilibrium, when allowed or recommended by the International Monetary Fund (IMF).

Any action is limited to a period of 150 days unless extended by Act of Congress.

The section reflects the conviction that price-based measures such as import surcharges are clearly preferable to quantitative limitations for balance-of-payments purposes. It permits the use of quotas only if they are a legitimate measure to deal with balance-of-payments problems under the international trade or monetary agreements to which the United States is a party. This does not, under the current GATT provisions, require GATT approval prior to the use of quotas for balance-of-payments purposes.

Quotas may be imposed only to the extent that the fundamental imbalance cannot be dealt with effectively by an import surcharge. Quotas cannot roll back imports to levels below those in the most recent representative period, as determined by the President. Since the quotas are for balance-of-payments purposes rather than for altering trends in import growth, any increase in the domestic consumption of the article since the end of the representative period must also be taken into account in setting the quota level.

While explicit GATT rules envisage only the use of quotas for balance-of-payments purposes, surcharges have been preferred in practice and have gained de facto acceptance through their use by a number of countries. Section 122 expresses the sense of Congress that the President should seek modifications in international agreements to allow and govern the use of surcharges in lieu of quotas as a balance-of-payments adjustment measure.

Quotas must be applied on a most-favored-nation basis and aim at a distribution of trade approaching that which foreign countries might expect in the absence of quotas. Import surcharges, however, may be applied on a selective basis against only one or more countries having large or persistent balance-of-payments surpluses, provided the President determines that the purposes of section 121 would be best served by such action. The aim is to create incentives and pressures on surplus countries which have disproportionate reserve gains and persistently refuse to take effective adjustment action. However, the President must impose surcharges in conformity with new international rules for the reform of balance-of-payments adjustment procedures when and if they take effect.

It is important that the Administraton not be effectively proscribed from using the balance-of-payments authority itself because the impact on a country or group of countries would be unacceptably harsh. There should be authority to exempt a country or group of countries whose trade with the United States may represent a sizeable proportion of their international trade. It has also been widely recognized that it may be desirable to exempt developing countries from such measures. The Committee of Twenty of the IMF reportedly has agreed that developing countries would be exempt wherever possible from trade and capital controls imposed by other countries. Recently-terminated United States capital controls programs had provided, where possible, special dispensation for the developing countries.

The Administration therefore believes that the President should have discretion to exempt a country or group of countries from a surcharge if he determines that such exemption is necessary to avert a serious adverse economic impact on such country or group of countries. The Administration proposes the amendment of section 122(c)(2) to permit application of import surcharges on a non-MFN basis in order to exempt certain countries, pending the entry into force of new international rules regarding the application of surcharges.

Import-restricting actions for balance-of-payments purposes must apply uniformly to a broad range of imports. Exceptions may be made to meet the needs of the United States economy, for example, to ensure availability of domestic supplies at reasonable prices, the importation of necessary raw materials, and to avoid serious dislocations in the supply of imported goods. Consequently, the exceptions to the application of import surcharges and quotas explicitly include items in domestic short supply and items on which the United States depends for its supply on foreign countries.

Exceptions may also be made when application would be unnecessary or ineffective (such as on goods in transit), or for imports under binding contracts which would only result in higher domestic prices. The imposition of or exception to import restricting actions cannot, however, be for the purpose of protecting domestic industries from import competition.

Section 122 also authorizes the President to reduce tariffs temporarily by not more than 5 percent ad valorem and/or to reduce or suspend import quotas temporarily to deal with the following specific balance-of-payments *surplus* situations:

1. A "large and persistent" United States balance-of-payments surplus, which is substantial over a period of time and is likely to continue in the absence of corrective measures; or
2. To prevent a "significant" appreciation of the dollar in foreign exchange markets.

Any import-liberalizing action for balance-of-payments purposes is limited to a maximum period of 150 days unless extended by Act of Congress. The reduction or suspension of tariffs or quotas cannot apply to imports of articles on which the President determines such action would cause or contribute to

material injury to firms and workers in the domestic industry or would impair the national security. Articles subject to import relief or national security actions are also excluded, as required under section 128.

3. *Inflation restraint (section 123)*

Section 123 recognizes that the reduction or suspension of trade restrictions can provide an effective and flexible tool to help assure the availability of sufficient supplies to meet domestic demand at reasonable prices. At the present time, the President does not have the authority to suspend import barriers as a means to help curb inflationary pressures, although he does have authority in certain circumstances to suspend certain quotas.

Section 123 provides the President authority to proclaim for a period of 150 days a temporary reduction or suspension of duties and a temporary increase in the level of imports under quota on any article or groups of articles in inadequate supply to meet domestic demand at reasonable prices during a period of sustained or rapid price increases. The exercise of this authority is carefully circumscribed by a number of specific limitations:

1. Any action is limited to a maximum duration of 150 days unless extended by Act of Congress.

2. Actions at any one time cannot apply to more than 30 percent of the estimated value of total United States imports.

3. Articles will be excluded from such action if, in the President's judgment, it would cause or contribute to material injury to the firms or workers in the domestic industry, impair the national security, or be otherwise contrary to the national interest. Articles subject to actions under section 22 of the Agricultural Adjustment Act must be exempted. Actions also cannot apply to articles which are subject to import relief or national security actions, as required under section 128.

4. An article cannot be subject to more than one such action within one year.

5. The President must promptly notify both Houses of Congress of his action and the reasons for it.

These limitations on Presidential discretion are designed to provide effective safeguards against abuse of the authority and to ensure that it is not used to the detriment of individual segments of the economy.

Section 123 is the principal authority in the Trade Reform Act specifically addressed to problems of short supply in the United States. It covers suspensions of duties and other import barriers on articles for which there are shortages manifested by price increases. Even if price controls prevent price increases from occurring, the statutory criteria for use of the authority could still be met if there is inadequate supply at the controlled reasonable price level.

The Administration proposes two amendments of section 123 to make the authority more fully responsive to short supply situations in the United States and to change the focus of the section from general inflation to short supply. The Administration is also interested in discussing other proposals for improvement in this area.

A short supply situation may occur where antidumping or countervailing duties are applied. The first amendment provides authority in these cases to reduce temporarily or suspend these additional duties as well as the normal rate of duty. More time is necessary to evaluate the effect of the suspension of duties or the increase of imports under a quota before action by the Congress to preserve the duty suspension or quota liberalization. The second amendment provides for maximum period of one year for maintaining an action prior to obtaining legislation, rather than 150 days, in order to provide much better information on which to evaluate experience under the action.

4. "Compensation" Agreements (section 124)

Under GATT Article XIX a country which increases duties which have been bound in the GATT against increase or which imposes other import restrictions as an import relief measure is required to consult with foreign countries having an export interest in the articles involved. They may request the country taking the action to offer new concessions on other articles as "compensation" to replace and offset those withdrawn by an equivalent amount in order to restore the general level of concessions. If "compensation" is not forthcoming or if it is judged inadequate and a negotiated settlement is not reached, the countries adversely affected have the right to restore the balance of concessions through retaliatory action by increasing or imposing new barriers of an equivalent amount on the country's exports.

Section 124 provides the President permanent authority to offer "compensation", as needed to offset increases in United States tariffs or other import restrictions imposed as import relief measures under section 203 and to avoid offsetting actions gy foreign countries, which could be far less advantageous to the United States. Section 126, on the other hand, provides the United States permanent authority for "self-compensation" when foreign countries do not provide adequate "compensation" to the United States when they withdraw concessions.

Authority in the past to reduce duties for "compensation" purposes has been included in the general negotiating authority. The President has lacked such authority since the expiration of section 201 of the Trade Expansion Act on June 30, 1967. The authority to grant "compensation" should be unlimited in its time frame. It should be coextensive with the permanent authority to impose import relief measures under sections 201–203 which give rise to international obligations to pay "compensation."

Under section 124 the President has discretionary authority to enter into trade agreements providing for reductions in duties or for the continuation of existing duties or duty-free treatment to the extent he determines necessary or appropriate as "compensation" to maintain the general level of concessions. The President would provide foreign countries having an export interest in the product affected by the import relief action an opoprtunity to consult with respect to concessions which might be granted as "compensation," to the extent required by international obligations.

Exercise of the authority is subject to several limitations:

1. Duty reductions are limited to no more than 30 percent below the existing rate of duty.
2. The pre-negotiation procedures under sections 131–134 apply.
3. Articles subject to import relief or national security actions are exempted (as required under section 128) from use as items on which "compensation" would be granted.
4. The authority applies only to import relief actions taken under section 203.
5. The authority can only be used following the expiration of the five-year basic tariff authority under section 101, which may be used during that period for "compensation" purposes.

5. Supplemental tariff agreements (section 125)

The purpose of section 125 is to provide the President temporary authority to enter into and implement trade agreements of limited scope with foreign countries following expiration of the basic tariff authority under section 101. The authority would authorize small agreements; for example to remove tariff dicrepancies or anomalies in two-way trade of an article which often become apparent only after the results of a major trade negotiation come into operation. There may also be opportunities following the major negotiations for the reduction of a limited number of tariff rates in return for foreign concessions advantageous to United States exports.

Use of the authority is subject to several strict limitations:

1. It is operative only during the two-year period immediately following the expiration of the tariff authority under section 101.
2. Tariff reductions are limited to a maximum of 20 percent below the existing rate of duty, and the increase or decrease in any duty cannot be more than to a rate authorized through maximum use of the authority under section 101. For example, a duty of 20 percent ad valorem, which has been reduced to 10 percent in the major trade negotiations, could not be reduced below 8 percent under section 125.
3. Duty reductions or the continuation of duty-free treatment under supplemental agreements entered into in any one-year period cannot apply to more than two percent of the total value of United States imports during the most recent 12-month period for which statistics are available.
4. Use of the authority is subject to the pre-negotiation procedures of sections 131–134.
5. Articles subject to import relief or national security actions are automatically exempt, as required under section 128.

As under section 101, the conditions for exercising the authority permit the reduction of import barriers which unduly burden and restrict trade, such as imports of articles in short supply.

6. Withdrawal or suspension of trade agreement concessions; termination of agreements (section 126)

Section 126 is designed basically as a "housekeeping" provision to grant the President explicit authority to exercise United States rights and obligations under trade agreements and to enable management of the trade agreements program in an effective and efficient manner.

The authorities under section 126 are four-fold: (1) continuation of the traditional requirement in previous trade legislation that every trade agreement be subject to termination or withdrawal at the end of a specified period; (2) domestic legal authority to terminate proclamations, partially or fully; (3) specific domestic legal authority to implement the withdrawal or suspension of trade agreement concessions in exercising United States international rights and obligations; and (4) explicit authority to prevent the application of prior rates of duty after a termination of all or part of a trade agreement.

Traditional withdrawal or termination requirement.—Every trade agreement entered into under the Trade Reform Act must be subject to withdrawal or termination in whole or in part upon due notice at the end of a period specified in the agreement. This period cannot be more than three years after the agreement goes into effect. This provision under section 126(a) is traditional in previous trade legislation.

Domestic legal authority.—In order to implement domestically the withdrawal or suspension of trade agreement concessions internationally, the President may terminate partially or fully the proclamation implementing that trade agreement, thereby restoring partially or fully the prior proclaimed rates or the statutory rates. In addition, he may utilize section 126(c) to increase existing rates of duty up to any level from existing rates to a maximum of the greater of (1) 50 percent above the Column 2 rate or (2) to 20 percent ad valorem above the rate existing on July 1, 1973, to the extent such action is consistent with United States international obligations and with the purposes of the Act. These limits are identical to those contained in section 101 (the tariff authority). The President must provide for public hearings before taking any action to terminate a trade agreement under section 126(b) or to withdraw or suspend trade agreement concessions under section 126(c).

The requested authority would permit the partial withdrawal of concessions, that is, intermediate rates may be established between those presently in existence and the Column 2 rates. It would further permit the termination of concessions to be for a limited period of time, that is, for a suspension of the agreement rates, following which duties could be returned to prior concession levels.

Partial withdrawal or suspension would also authorize the President to carve out any item from a concession and to increase the duty on the article or articles so carved out. This procedure has been used in the past to minimize the impact on non-offending countries of withdrawal or suspension of a concession on a most-favored-nation basis, pursuant to United States rights under GATT Article XXVIII.

Action to withdraw or suspend trade agreement concessions under section 126(c) could be useful in several cases. The principal and most frequent case is in the exercise of the right under GATT rules to make offsetting withdrawals to restore the general balance of concessions if another country withdraws concessions but does not provide adequate compensation. The right of "self-compensation" may occur if a foreign country does not offer satisfactory compensation, for example when it renegotiates a trade agreement under GATT Article XXVIII, increases restrictions as an import relief measure under Article XIX, or withdraws concessions incident to the formation of a new customs union under Article XXIV. If such actions adversely affect United States exports, the United States could respond on a most-favored-nation basis under the authority of section 126 by increasing tariffs on imports from the foreign country for the time and in the amount necessary or appropriate to the exercise of United States rights under the agreement, for example in an amount which would restore the balance of concessions under the trade agreement.

A second case in the right of the United States to initiate a unilateral withdrawal of concessions under the renegotiation rights of GATT Article XXVIII. For example, the United States exercised this right to modify concessions in order to establish a tariff-rate quota on stainless steel flatware in 1971, relying partially on the termination authority in the Trade Expansion Act for domestic authority.

A third case, which has not yet occurred, would be a multilateral withdrawal or suspension, of concessions. For example, the contracting parties could authorize collective action under GATT Article XXIII to offset trade measures of a coun-

try which damage the trade of third countries, as a means of obtaining its compliance with international rules.

The President does not have explicit and sufficiently flexible authority at the present time to exercise fully United States rights in these types of situations. The section clarifies and makes more explicit the more general authority under section 255(b) and section 201(a)(2) of the Trade Expansion Act which has been used for such actions in the past.

Section 126(c) does not contain independent authority to decrease tariffs. Its use is limited to the exercise of United States rights and obligations under trade agreements. Section 126 is implementation authority for the purpose of exercising these rights and obligations as contrasted with section 301, which is domestic authority that is independent of an international right to act in response to foreign unfair practices. Action under section 126 must also be consistent with United States international obligations, whereas these obligations have only to be considered under section 301. The purpose of section 126 is to provide additional flexibility and more explicit authority than under present law to enable the United States to protect its trading interests as fully as foreign countries can under GATT procedures.

Authorization to prevent "spring back."—Section 126(d) provides explicit authorization to deal with tariff changes following the termination of a trade agreement by the United States or by a foreign country.

Existing authority does not specifically provide for maintaining current rates of duty resulting from trade agreement concessions in lieu of a "spring back" to statutory rates or other pre-existing rates if a trade agreement is terminated in whole or in part.

Section 126(d) permits the continuation of the trade agreement rates of duty for one year following the termination of the agreement, unless the President decides to restore the pre-agreement rates. Within 60 days after the termination, the President must submit to the Congress recommendations for maintaining or modifying the rates of duty on the articles involved in the termination. If the Congress does not act within the one-year period, the rates would "spring back" to pre-agreement levels.

The purpose of this provision is to prevent a serious shock to the national economy which could result if tariffs were required to "spring back" to 1930 rates of duty in the absence of any trade agreements. It enables concession rates to be maintained on the basis of de facto mutual benefit. The prevention of "spring back" provides time for possible renegotiation of the terminated agreement and enables Congressional review and possible action in light of the new situation.

7. Nondiscriminatory treatment (section 127)

Section 127 requires that duties, other import restrictions, and duty-free treatment proclaimed to carry out any trade agreement under Title I of the Trade Reform Act must be applied on a nondiscriminatory (most-favored-nation) basis, unless another provision of law specifies to the contrary. The term "other import restrictions" is defined under section 601 as including "a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of importation." The term does not include orderly marketing agreements. The Administration interprets this definition as referring to measures imposed at the border for the purpose of restricting imports. For example, automobile emission standards or health and safety regulations have an effect on trade but are imposed for environmental and social reasons rather than to restrict imports. Consequently, these types of measures would not be covered by the definition.

Section 127 is virtually identical to section 251 of the Trade Expansion Act. The principle is consistent with United States international obligations under the GATT and is the basis for efforts by the United States to achieve an open and nondiscriminatory world trading system.

Specific exceptions to requirement for most-favored-nation treatment under the Trade Reform Act include: (1) discretionary authority under section 122 to impose an import surcharge against one or more countries having large or persistent balance-of-payments surpluses; (2) application of retaliatory action under section 301 against an unreasonable but not unjustifiable foreign trade practice only to imports from the offending foreign country, and discretionary authority to act only against offending countries in the case of unjustifiable acts; (3) nonapplication of most-favored-nation treatment to countries which do not currently receive or qualify for such treatment under Title IV; (4) discretionary authority to apply import relief measures under the market dis-

ruption provisions of Title IV only to imports from a country or countries granted nondiscriminatory treatment under that Title; and (5) application of generalized tariff preferences only to developing countries designated as beneficiaries under Title V.

8. Reservation of articles from negotiations (section 128)

Section 128 requires that the President exempt any article from any reduction or elimination of duty or other import restriction under the Trade Reform Act when (1) he determines such action would threaten to impair the national security; or (2) an import relief action under section 203 of this Act or section 351 of the Trade Expansion Act, or a national security action under section 232 of the Trade Expansion Act is in effect. He may also reserve from trade negotiations any other article he determines appropriate after taking into consideration the information and advice supplied under the prenegotiation procedures of section 131–134.

This provision is similar to section 225 of the Trade Expansion Act. It would permit the exemption of articles from tariff reductions if short supply situations could be alleviated over the long-term by encouraging less dependence on imported raw materials.

Section 232 of the Trade Expansion Act will remain in effect. It authorizes the President to restrict imports of an article which threaten or impair the national security. Under section 128 the President must report any actions taken under section 232 and the reasons for them to the Congress within 60 days. He must also submit an annual report to the Congress on the operation of section 232.

The Administration proposes an amendment to permit broad nontariff barrier agreements to cover an article subject to import relief or national security actions when a nontariff barrier agreement is not inconsistent with those actions, for example, an agreement on standards or customs documentation. Duties or other import restrictions imposed as national security or import relief measures or normal Column 1 duties existing on such articles could not be reduced pursuant to the international agreement.

C. PRENEGOTIATION PROCEDURES CONGRESSIONAL LIAISON AND REPORTS (SECTIONS 131–163)

Title I also contains provisions to ensure that the authorities contained in the Title are exercised in the overall national interest. The procedural requirements are of three basic types:

1. Obtaining advice and information from the Tariff Commission prior to negotiations;

2. Obtaining advice and information from appropriate Executive branch Departments, through public hearings, and through a new mechanism for liaison with the private sector; and

3. Congressional participation in the negotiations and submission of reports by the President to the Congress for its oversight and review of the trade agreements program.

The pre-negotiation requirements to obtain information and advice from the Tariff Commission and from the Executive branch Departments and to hold public hearings apply, in either mandatory or optional form, to (1) tariff agreements under section 101; (2) nontariff barrier agreements under section 102; (3) compensation agreements under section 124; (4) supplemental tariff agreements under section 125; and (5) the eligibility of articles to receive generalized tariff preferences under Title V. The mechanism for liaison with the private sector applies to the negotiation of trade agreements only under sections 101 and 102.

1. Tariff Commission advice (section 131)

Section 131 is similar to section 221 of the Trade Expansion Act. It requires the President to publish and furnish the Tariff Commission lists of articles which may be considered for duty elimination, reduction, imposition, or increase, or for the continuation of existing duty or duty-free treatment. The Tariff Commission must then advise the President within six months of the probable economic effect of duty modifications on the domestic industry producing a like or directly competitive article and on consumers. The advice may also include the Tariff Commission's judgment as to whether a duty reduction should be staged over longer than the minimum period authorized under section 103.

The Tariff Commission must also make other investigations and reports requested by the President, including advice as to the probable economic effects on the domestic industry and purchasers and on domestic supplies and prices of modifying or eliminating a nontariff barriers or other trade-distorting measure under section 102. The advice would include a determination by the Tariff Commission of rates of duty affording substantially equivalent protection in cases where conversion of a nontariff barrier to a tariff is contemplated under section 102.

Section 131 enumerates a number of economic factors which the Tariff Commission must investigate and analyze to the extent practicable in preparing its advice. This advice should include the alleviation of domestic short supply situations. The Commission must also hold public hearings during the course of the investigation.

The Administration proposes an amendment to section 131(b) to reduce the time from six months to 60 days within which the Tariff Commission must give advice to the President with respect to items subject to compensation agreements under section 124, or supplemental agreements under section 125. While six months is necessary for the Tariff Commission to give advice with respect to the lengthy list of articles which is typical of section 101 agreements, 60 days should provide sufficient time for advice on the limited coverage agreements under sections 124 and 125.

2. Department advice (section 132)

The President must seek information and advice under section 132 from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, and Treasury, from the Special Representative for Trade Negotiations, and from other appropriate sources before he enters into a trade agreement. This provision is similar to section 222 of the Trade Expansion Act. The information and advice would relate, for example, to increasing access to supplies through lowering of trade barriers.

3. Public hearings (section 133)

Section 133 requires the President to designate an agency or interagency committee to hold public hearings on matters relevant to a proposed trade agreement. The purpose of the hearings is to obtain information and views with respect to duty modifications on any article on the list submitted to the Tariff Commission for its advice under section 131, articles which should be so listed, or trade concessions which should be sought from foreign countries.

This provision is similar to Section 233 of the Trade Expansion Act. Its purpose is to make a full range of views and information available to the Executive branch on the possible impact of United States concessions on domestic economic interests and of the market access and supply problems on which negotiating attention should be focused in seeking concessions from foreign countries of greatest value to United States trading interests.

4. Prerequisite for offers (section 134)

Section 134 stipulates that the President must receive the advice of the Tariff Commission under section 131 (provided it is supplied within the specified six-month period) and a summary of the public hearings under section 133 before he makes any offer to eliminate, reduce, increase, or impose duties or to continue existing duty or duty-free treatment in the negotiation of a trade agreement.

This provision is similar to section 224 of the Trade Expansion Act. Its purpose is to ensure that the information and advice obtained from the Tariff Commission and from the public hearings is taken into account prior to the offer of tariff concessions.

5. Advice from the private sector (section 135)

Section 135 establishes for the first time a formal institutional framework to ensure a two-way liaison between the Government and the private sector with respect to the multilateral trade negotiations, consisting of: (1) A mechanism for the Executive Branch to obtain information and advice from representatives of private interests with respect to United States negotiating objectives and bargaining positions prior to entry into a tariff or nontariff barrier agreement; and (2) consultative procedures for the Executive branch to receive advice and provide representatives of the private sector information on significant developments and issues and overall negotiating objectives and positions prior to and during the course of negotiations.

Section 135 explicitly creates a mechanism consisting of an Advisory Committee for Trade Negotiations and of individual industry, agriculture, or labor advisory committees representative of particular product sectors as the President determines necessary for trade negotiations. The President must also provide adequate opportunity on a continuing and timely basis for other private organizations and groups to provide information and recommendations pertinent to trade negotiations on an informal basis.

The Office of the Special Representative for Trade Negotiations will appoint a Director of Government Liaison with industry, agriculture, and labor for trade negotiations whose responsibility it will be to carry out establishment and continuing operation of the formal advisory structure. He will also become the focal point for all private sector contacts of an informal nature with the Office of the Special Representative for Trade Negotiations.

The Advisory Committee will provide overall policy advice on any trade agreement under section 101 or 102. It will consist of no more than 45 individuals representing Government, labor, industry, agriculture, consumer interests, and the general public. Its purpose is to provide negotiators with a balanced view based on a broad range of interests of what United States objectives should be in the multilateral trade negotiations. The Committee will be chaired by the Special Representative for Trade Negotiations. The members will be appointed by the President, for a two-year period, subject to reappointment for one or more periods.

The sector advisory committees will be established by the President on his own initiative or at the request of organizations within the sector as he determines necessary. They are to be representative of all industry, labor, or agricultural interests within the sector to the extent practicable. They will be organized by the Special Representative for Trade Negotiations and the Secretaries of Commerce, Labor, or Agriculture on the basis of consultations with interested private organizations, taking into account patterns of international competition and trade barriers affecting such competition. The committees must necessarily be limited to a reasonable number and size, and the products covered by each should be reasonably related.

The purpose of the sector advisory committees is to provide policy and technical advice and information with respect to particular domestic and foreign products, and advice to the Executive Branch on other issues relevant to United States positions prior to and during trade negotiations. These committees should be particularly helpful in providing information as to concessions which should be sought as having the greatest potential for expanding United States export opportunities. The Special Trade Representative must adopt procedures to consult with the advisory committees to obtain their information and advice, and to provide them with timely information on significant issues and developments during the negotiations and on United States and foreign overall negotiating objectives and positions.

The Special Trade Representative is not bound by the advice or recommendations of the advisory committees since he is responsible for conducting the negotiations on the basis of the overall national interest. He must inform the committees at an appropriate time, however, if their advice or recommendations have not been accepted. The report to the Congress by the President under section 163 must also cover the consultations, the issues involved, and the reasons for not accepting advice or recommendations, if that is the case.

The provisions of the Federal Advisory Committee Act apply to the public Advisory Committee for Trade Negotiations. The provisions of that Act relating to open meetings, public notice, public participation, and public availability of documents do not apply, however, with respect to the sector advisory committees whenever disclosure of matters discussed in the meetings would seriously compromise negotiating objectives or bargaining positions. This exemption is designed to ensure an effective two-way liaison between the private sector and government which cannot take place if negotiating objectives, tactics and strategy, as well as business confidential information is available to the public in open meetings including the press and representatives of foreign governments.

In this regard, H.R. 10710 as passed by the House exempts the respective advisory committees except the overall public Advisory Committee from Section 10(a) and 10(b) of the Federal Advisory Committee Act. To avoid any question as to whether Section 11 of the same Act, which requires transcripts to be made available to the public at cost, might be interpreted to circumvent the purpose of the section 10(a) and 10(b) exemptions, the Administration requests

that section 135(c) be amended by including a section 11 exemption of the meetings of all of the respective industry, agriculture and labor advisory committees.

Section 135 requires by far the most extensive consultations with the private sector ever undertaken in preparation for trade negotiations. In fact, the Administration is going even farther than the section requires. In the case of industry, the Administration has created an Industry Policy Advisory Committee in addition to the required product sector committees. This committee, which will act as an overall advisory body representing the board interests of United States industry, is composed of about 20 industry policy-level individuals representative of a cross-section of industry. It will also be linked with the work of the product sector committees. For example, it will have the opportunity to review the substance of the reports of those sector committees, which will also be submitted directly to the United States negotiators. A summary of that review and other policy advice will be forwarded to the public Advisory Committee for Trade Negotiations.

The Administration believes this approach will more fully integrate the private sector into the negotiations and will provide a mechanism for reviewing the mass of work produced by the sector committees. This approach was adopted after extensive formal consultations (almost 80 industry sector meetings) with the private sector. A similar approach may be useful with agriculture and labor if the private interests in those sectors so desire. The Administration proposes an amendment to section 135(c) to include the flexibility to adopt this approach.

6. Congressional delegates to negotiations (section 161)

Under section 161, five members of the House Committee on Ways and Means and five members of the Senate Committee on Finance will be selected at the beginning of each regular session of the Congress to be accredited as official advisors to the United States delegation to international conferences, meetings, and negotiating sessions on trade agreements. The members will be selected by the President upon the recommendation of the Speaker of the House and the President of the Senate and may be reselected in order to provide some continuity if desired.

Section 161 is virtually identical to section 248 of the Trade Expansion Act, except that it expands the number of Congressional advisors from four to ten. It ensures on-the-spot Congressional oversight and participation in the multilateral trade negotiations.

7. Transmission of agreements to Congress (section 162)

Section 162 requires the President to transmit a copy of each trade agreement entered into under section 101 (tariff agreements), section 102 (nontariff barrier agreements), section 124 (compensation agreements), or section 125 (supplemental agreements) to both Houses of Congress as soon as practicable after the agreement has entered into force, if he has not already done so. The President must accompany the agreement with a report of his reasons for entering into the agreement, in light of the advice of the Tariff Commission under section 131 and other relevant considerations. A summary of the information will be sent to each member of the Congress.

This provision is similar to section 226 of the Trade Expansion Act. It ensures the Congress of current information as to the content of trade agreements entered into by the United States.

8. Reports to the Congress (section 163)

Section 163 requires the President to submit an annual report to the Congress on various aspects of the trade agreements program and on the operation of the import relief and adjustment assistance provisions of the Trade Reform Act. The Tariff Commission must also submit a factual report to the Congress at least once a year on the operation of the trade agreements program. Section 163 is similar to section 402 of the Trade Expansion Act.

TITLE II—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

Title II of the Trade Reform Act represents a major reform of present statutes and programs which provide temporary relief to domestic industries and firms and workers in order to facilitate their orderly adjustment to fair import competition. The domestic safeguards under Title II are of two types: 1) import relief measures for domestic industries seriously injured by increased imports; and 2) adjustment assistance payments and programs for groups of workers and for technical and financial assistance for individual firms.

Many of the domestic criticisms of Administration trade policy are directed toward the inadequacies and inefficiencies of import relief and adjustment assistance programs under *present* law. "Escape clause" procedures currently available under the Trade Expansion Act have been inadequate in some cases to fashion appropriate relief for individual industries seriously injured or threatened with serious injury by increased import competition. Current procedures do not provide for the granting of relief in time to be of greatest benefit. Most of all, the eligibility criteria have been too stringent. In only three out of 26 cases in which industries have petitioned the Tariff Commission for import relief under the Trade Expansion Act have a majority of the Commissioners found the qualification requirements met. In only six other cases the Commissioners were equally divided on the question of serious injury due to increased imports.

The present "escape clause" provisions involve two causal requirements or "links." Most petitioners have failed to meet the requirement that increased imports result in major part from previous trade agreement concessions. It has been very difficult and often impossible to demonstrate a cause and effect relationship between increased imports and tariff reductions which may have taken place many years ago. Products causing injury now may not have been in existence when the concessions were made. Secondly, the requirement that increased imports be the "major" factor causing serious injury has imposed two difficult a test to provide sufficient access to relief for industries experiencing injury from import competition.

Consequently, pressures have increased on both the Congress and the Executive branch for special purpose legislation and ad hoc arrangements to deal with individual industry problems. Proposals have included those for legislation of automatic domestic safeguards to limit annual imports across-the-board on the basic arithmetic criteria. These types of measures have serious deficiencies and are not an appropriate approach to import relief. They would apply arbitrary formulas to the widely diverse circumstances and competitive pressures experienced by different industries, preclude the consideration of other economic factors which may be the actual cause of injury, lead to the inequities of windfall relief for industries which do not need it, and risk the rigid regulation of world trade. The result would be to inhibit economic growth, and consequently job opportunities, rather than to stimulate it.

A determination of whether an industry is experiencing or threatened by serious injury due to imports cannot be based solely on quantitative evidence. Qualitative factors must also be considered.

The eligibility criteria under the Trade Expansion Act for trade adjustment assistance for workers have also been too stringent for the program to have a major impact in dealing with import-related unemployment. Between 1962 and late 1969 no workers were certified eligible by the Tariff Commission. Since 1969 only about 43,000 workers have been certified as eligible for assistance, of which only about 31,000 have actually received benefits. In cases where workers have been certified eligible, the effectiveness of the program in achieving its primary goal of rapid adjustment of workers to new employment has been limited by inherent delays in the procedural requirements. It has been impossible for most workers to qualify for and actually receive assistance in time to be of maximum benefit.

One of the major purposes of the Trade Reform Act is to correct these deficiencies in the import relief and adjustment assistance programs. Title II provides (1) more realistic access criteria for import relief and adjustment assistance; (2) more expeditious procedures to ensure provision of import relief and adjustment assistance in timely fashion; (3) a greater variety of relief measures to fashion effective remedies suited to the particular circumstances of each case; and (4) more adequate benefit payments and services for workers displaced by import competition.

Changes in present domestic safeguard programs under Title II are needed even in the absence of further trade expansion through use of the authorities under Title I. The benefits overall from increased trade have not been distributed equally among all segments of the domestic economy. While increased exports have expanded business and altered the mix of job opportunities, increased import competition has caused job displacement and business losses in certain industries. Changes in competition resulting from the growth and changing composition of trade have not always provided sufficient time for workers and industries to adjust without undue hardship.

Our national objectives in the trade field are to reduce trade barriers and thereby maximize the benefits through increased trade of income growth, more productive and efficient industries, a more rational mix of job opportunities, a wider consumer choice of products, and adequate supplies of essential materials. At the same time it is appropriate for the nation as a whole to share the economic costs of temporary assistance and relief measures to ease the burden of adjustment and to support the economic and social well-being of particular segments of the economy when trade adjustment problems are the consequence of government policies over which individual industries, firms and workers do not exercise control.

Import relief should be fashioned to minimize the costs to the overall economy of any import relief measures which may be required, but at the same time be sufficient to bring about the orderly adjustment of the particular industry and its firms and workers. The adjustment may consist of a transfer of productive resources to new and more efficient uses. Or the relief may enable a basically viable industry to take the measures necessary to become competitive again in the same line of activity.

Consistent with the adjustment purpose, relief should be granted only to the extent and for the period of time necessary to induce and aid adaptation to competitive pressures. It should not be a means to insulate and shelter basically inefficient industries and firms behind permanent trade barriers.

A. IMPORT RELIEF (SECTIONS 201–203)

Sections 201–203 contain fundamental revisions of the current "escape clause" provisions of the Trade Expansion Act in order to increase access to and expedite the provision of import relief to domestic industries. The major changes are:

1. Liberalization of existing criteria for determining import injury to a domestic industry. The eligibility criteria to qualify for import relief are liberalized in two major ways: (a) The "causal link" requirement that increased imports result in major part from pervious trade concessions is removed; and (b) increased imports need only be a "substantial" cause rather than the "major" cause of actual or threatened serious injury. While there have been differences of opinion among individual Tariff Commissioners over the definition of "major" cause, "major" cause has been interpreted as a greater cause than all other causes combined. As stipulated on page 40 of the Committee on Ways and Means report on H.R. 10710, the new criteria of "substantial cause" means that "imports must constitute an important cause and be no less important than any other single cause."

2. Enumeration of certain of the factors to be taken into account by the Tariff Commission in determining the existence of serious injury, the threat of serious injury, and substantial cause. The statute also lists the considerations the President must take into account in his determination of whether and to what extent to provide import relief. These considerations include the effect of import relief on consumers, such as the price and availability of the imported article, and the effect on United States international economic interests.

3. An explicit order of preference for the form of relief the President should provide, and an expansion of the range of import remedies available. Relief measures include the suspension of the application of items 806.30 and 807.00 of the Tariff Schedules of the United States (TSUS) and suspension of generalized tariff preferences granted under Title V.

4. Tighter time limits for the determination by the President whether to provide import relief and on the duration of relief, as well as the phasing out of such relief.

1. Tariff Commission finding (section 201)

Section 201 of the Trade Reform Act sets forth the procedures and criteria to be followed by the Tariff Commission in its investigation and determination of whether a domestic industry qualifies for import relief.

A petitioner, the President, the Special Representative for Trade Negotiations, the House Ways and Means or Senate Finance Committee may request an investigation by the Tariff Commission, or the Commission may institute one on its own motion, to determine whether increased imports of an article are a substantial cause of actual or threatened serious injury to the domestic industry producing a like or directly competitive article. As under present practice, the petitioner, such as a trade association, firm, union, or group of workers, must be representative of an industry. The petition must describe the specific purposes

for which the relief is sought, such as to facilitate adjustment to new competitive conditions.

Section 201 enumerates a number of factors which the Tariff Commission must investigate and take into account during the course of its investigation. The Tariff Commission must also take into account all the economic factors it considers relevant in its judgment of whether the eligibility criteria of "serious injury," "threat of serious injury," and "substantial cause" are met. Consequently, the factors enumerated in the statute are not exclusive criteria. The domestic industry would not automatically qualify for import relief by demonstrating the presence of some or all of the factors listed.

Serious injury includes the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment in the industry. These factors are similar to those under the Trade Expansion Act.

Threat of serious injury includes a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment, or increasing underemployment in the domestic industry. The existence of any of these factors would not be relevant to the threat of import injury if it results from conditions unrelated to imports. An industry may be in serious difficulties for a variety of reasons, such as changes in technology and in consumer tastes, domestic competition from substitute products, plant obsolescence, or poor management. Unless increased import competition is also a "substantial" cause, the injury would not be eligible for import relief.

The Committee on Ways and Means report on the Act stipulates on page 47 that serious injury, although not yet existing, must be imminent for the threat of serious injury to exist. Consequently, it is the Administration's understanding that the Tariff Commission must determine whether the factors cited with respect to serious injury are imminent, as well as take into account all other economic factors it considers relevant. If serious injury is unlikely to occur soon, a threat of serious injury could not be found.

Substantial cause includes an increase in imports, either actual or relative to domestic production, and a decline in the proportion of the domestic market supplied by domestic producers. The determination of "substantial cause" requires that a dual test be met: Imports must be an important cause of the actual or threatened serious injury, and they must be no less important than any other single cause. For example, if imports were one of many factors of equal weight, they would meet the second test but it is unlikely they would be deemed an "important" cause. If there were any other cause more important than imports, then the second test of being "not less than any other cause" would not be met. If, for example, imports were one of only two causes of equal weight and there were no other factors, both tests would be met.

A determination of the existence or the threat of serious injury must be industry-wide in order for a domestic industry to qualify for import relief, not merely to certain firms or portions of the domestic industry. In determining what constitutes the "domestic industry," however, the Tariff Commission has discretion to treat only the domestic production of a producer which also imports as part of the domestic industry.

The Tariff Commission may also "segment" a domestic producer of more than one article by treating only the portion or subdivision of the company which produces the like or directly competitive article as part of the domestic industry. If a company has several independent operating divisions, the Tariff Commission would presumably be concerned with the question of serious injury to the productive resources (employees, physical facilities, and capital, for example) of only the plants or divisions in which the article is produced, unless there were compelling reasons not to do so. These reasons could include adjustment possibilities within the company or insufficient information to separate the company's operations.

In the case of multiproduct plants or divisions within the industry where productive resources are devoted to more than one individual product, such as assembly line operations, the Tariff Commission would be concerned with the operating unit as a whole not merely with the specific product line in question. It would not find actual or threatened serious injury to that particular establishment if it did not exist with respect to its operations as a whole. This approach is consistent with the adjustment purpose, which may be achieved by the shifting of productive resources from one individual product line to another within the plant or subdivision. In many cases accounting procedures do not permit sep-

aration of the productive resources within the plant devoted to a particular product.

The Tariff Commission will also investigate and report to the President on the efforts made by the firms and workers in the industry to compete more effectively with imports to aid in his determination of whether to provide relief. If the Tariff Commission has reason during the course of its investigation to believe that increased imports are attributable in part to unfair foreign trade practices within the purview of the Antidumping Act, countervailing duty law, or section 337 of the Tariff Act of 1930, or other remedial provisions of law, it must promptly notify the appropriate agency so that action may be taken. This provision is designed to provide a remedy appropriate to the cause of the problem and to avoid owing compensation to foreign countries or inviting retaliation needlessly.

As under the Trade Expansion Act, the Tariff Commission must hold public hearings during the course of its investigation. It must complete the investigation and report the findings to the President within a maximum of six months after the filing of the petition or request for an investigation. If the determination is affirmative, the Tariff Commission will include a finding as to the amount of relief it deems necessary to prevent or remedy the injury. The Tariff Commission must also publish the report (except for confidential information) and publish a summary in the Federal Register.

2. Presidential determination (section 202)

Section 202 contains the time limits the President must meet and enumerates the factors he must take into account in determining whether to provide import relief following an affirmative finding or a tie vote from the Tariff Commission under section 201 of actual or threatened serious import injury to a domestic industry.

The President now has 60 days following an affirmative Tariff Commission "escape clause" finding in which to make either a determination or to request supplemental information from the Tariff Commission. The Tariff Commission has 120 days in which to submit the supplemental report, following which the President has another 60 days to make his determination. There is no time limit for the President's determination in the case of a Tariff Commission tie vote.

These time periods will be greatly shortened under the Trade Reform Act. The President will have 60 days to make a determination in the case of either an affirmative finding or evenly divided Tariff Commission finding, or 45 days in which to request supplemental information. The Tariff Commission will have 30 days (60 days if extensive information is required) to submit the supplemental report, and the President must make a decision within 30 days after that report. In other words, the maximum time for the Presidential determination will be reduced from 240 days to 135 days.

Section 202 lists various international and domestic factors which the President must take into account, in addition to other relevant considerations, in determining whether and in what form to provide import relief. Presidential consideration of these and other factors is to ensure that the decision is reached on the basis of the overall national interest.

Consistent with the purpose of providing relief, the President must consider the probable effectiveness of import relief as an adjustment measure and efforts by the industry itself to adjust to import competition. He must take into account whether imports are concentrated in a particular geographic area of the country, causing undue economic and social hardship to workers and communities in a particular location. He must also consider whether the United States constitutes a focal point for exports of the article due to restraints in third country markets.

The President must also consider whether import relief will have a significant inflationary impact for consumers, which would require a consideration of availability of supplies. The possible adverse impact on other industries as a result of compensation which might be owed foreign countries in the form of tariff reductions on other products must be weighed, as well as the possible adverse impact on international economic interests if, for example, the compensation were judged inadequate and foreign countries retaliated against United States exports. Finally, the overall economic and social costs to taxpayers, communities, and workers of providing or not providing import relief must be considered.

In reaching his decision, the President must evaluate the extent to which adjustment assistance has been made or may be available to workers and firms in the industry. Following this evaluation he may direct the Secretaries of Labor

and Commerce to give expeditious consideration to adjustment assistance petitions. He may also decide to grant import relief. If the President decides not to provide import relief, he must submit a report to both Houses of Congress of the considerations on which the decision was based. He must also submit a report to the Congress on any relief granted.

3. Form of import relief (section 203)

Section 203 expands the types of import relief measures available under current law, stipulates their order of preference, and places time limits on the duration of relief.

The following order of priority is established on the methods of providing relief:

1. *Increases in or the imposition of duties.*—Duties may be increased up to 50 percentage points ad valorem above the existing rate. Under the Trade Expansion Act rate increases are limited to no more than 50 percent above the Column 2 rate. Since Column 2 rates are low or not much higher than Column 1 rates in some cases, duty increases do not always provide a sufficient form of relief under the present law.

Relief in the form of tariff increases is expanded to include suspension of the application of TSUS items 806.30 and 807.00 or the suspension of generalized tariff preferences granted on the article under Title V. Before these special rates may be suspended, however, the Tariff Commission must have determined in its section 201 investigation that the serious injury to the domestic industry resulted from the application of these provisions. Suspension would be on a most-favored-nation basis even though only one or two countries would be affected in most cases.

2. *Tariff-rate quotas.*—Imports may enter at existing rates of duty or at some other rate established under the tariff quota up to a certain quantitative level; over-quota imports enter at a higher duty. The same limitations apply as for duty increases.

3. *Quantitative restrictions.*—The quota cannot provide for a rollback of imports of an article from their level during the most recent representative period as determined by the President. The President must provide regulations for the efficient and fair administration of quotas and, to the extent practicable and consistent with these standards, insure against inequitable sharing of the quota amounts by a relatively small number of large importers.

4. *Orderly marketing agreements.*—As in the case of quotas, orderly marketing agreements cannot provide for a rollback of imports from their level during the most recent representative period as determined by the President. Regulations must insure against inequitable sharing of import levels to the extent practicable and consistent with efficient and fair administration.

The President may issue regulations to apply the restrictions under the agreement to imports of the article from nonsignatory countries in order to carry out one or more agreements with countries accounting for a major part of United States imports of the article. There must be two or more bilateral agreements or one or more multilateral agreements covering a major part of United States imports before the restraints can be extended to non-participating countries. One agreement with one country, even if it covers a major part of total United States imports of the article, could not serve as a basis for imposing restraints on imports from other countries.

The quantitative test is changed from "a significant part of world trade" under section 352 of the Trade Expansion Act to "a major part of United States imports". "World trade" is an ambiguous term which can be defined in several ways and is not directly relevant to United States action. The term "major" is not defined since it should not be limited to a specific quantitative amount. It is intended to constitute more than a significant portion.

5. *Any combination of the above actions.*—One of the major changes under section 203 from existing law is greater flexibility in the combination of relief measures which may be applied. Under section 352 of the Trade Expansion Act, the President may negotiate orderly marketing agreements "in lieu of" providing other forms of import relief. Under section 203 the "in lieu of" language is eliminated and the President could, for example, proclaim tariff increases, tariff-quotas, or quotas while negotiating an orderly marketing agreement. Or the President could suspend the application of other relief measures during the course of the negotiation if he announces the intention to negotiate such an agreement within 15 days after his decision to provide relief. He may also suspend

application of other import relief measures while an initial orderly marketing agreement is in effect. If the negotiations are unsuccessful in obtaining at least one agreement during the following 180 days, the initial proclamation of another form of relief must go into effect on or before the 180th day. Duty increases, tariff-quotas, or quotas must be applied on a most-favored-nation basis (with the exception of actions under section 405).

The President must grant import relief within 15 days after his determination under section 202 to provide relief unless he announces his intention during this 15-day period to negotiate one or more orderly marketing agreements. The purpose of the 15-day period is to provide sufficient time for preparation of the proclamation and other legal memoranda, and for their consideration by the President.

The President must exercise due diligence to notify those who may be adversely affected by import relief, and provide for a public hearing on the proposed method of relief before it goes into effect. Sixty days following a Tariff Commission finding is not sufficient time for the Executive branch to formulate an import relief proposal, to give reasonable notice of public hearings (often 30 days), to conduct the hearings, to take the information they produce into account, and for the President to make his final decision on the form of import relief. Therefore, the Administration proposes amending section 202(b) to extend the time period by 30 days in cases of affirmative serious injury findings by the Tariff Commission under section 201, i.e., to provide 90 days (90 days in the case of a supplemental Tariff Commission report under section 202(d)) between the time of the finding and the President's decision on the form of import relief. Alternatively, the Administration would recommend the deletion of the public hearing and notice requirements under section 203(g) because they duplicate Tariff Commission procedures under section 201.

The President must report to the Congress the import relief action he is taking and why he has chosen the particular form of import relief rather than relying on adjustment assistance. In addition, he must report the reasons for selecting a method of relief if it ranks lower in the order of preference.

The choice of quotas or orderly marketing agreements, third and fourth respectively in the order of priority, is subject to Congressional disapproval under the veto procedures of section 204. Under these procedures the President must submit promptly a copy of the import quota proclamation or the orderly marketing agreement plus the report of his reasons for this relief to both Houses of Congress. If a majority of those present and voting in either House adopt a disapproval resolution within 90 days after receiving these documents, then the quotas or orderly marketing agreement cannot go into effect. The President has 15 days following the date of a disapproval resolution to provide import relief in the form of tariff increases or a tariff-rate quota.

The order of preference in the choice of import relief measures, the required evaluation of the availability of adjustment assistance, the public hearings on the proposed remedy, the report to the Congress on the reasons for choosing import relief rather than adjustment assistance, and the Congressional veto over the selection of quotas or orderly marketing agreements reflect the belief that the method of import relief should meet essentially two criteria: 1) It should be the remedy best suited to achieve the purpose of facilitating orderly adjustment to import competition under the particular circumstances of each case; and 2) it should at the same time incur as low a cost as possible to the domestic economy as a whole and to other individual segments of the domestic economy, such as to other industries and the consumer. Consequently, adjustment assistance for workers and firms within the industry is the preference method.

If adjustment assistance is not sufficient to handle the problem, then tariff increases or tariff-rate quotas are the preferred methods of import relief since they pose the least risk of trade regulation, excessive protection, and windfall profits to particular firms in the industry. If quotas or orderly marketing agreements are selected and not disapproved by Congress, they will be regulated in as equitable a manner as practicable and consistent with efficient and fair administration.

Section 203 imposes stricter time limits than the Trade Expansion Act on the duration of import relief. Present law provides for an initial four-year term of relief. Relief may be extended for additional four-year periods following an investigation and advice by the Tariff Commission. Under the Trade Reform Act import relief may be granted for an initial maximum period of five years. Any relief granted for more than three years must, to the extent feasible, be

phased down beginning no latter than the third year. Relief may be extended for only one two-year period.

The President may reduce or terminate the relief at any time if he determines such action would be in the national interest. The decision must take into account the advice of the Tariff Commission, including public hearings during its investigation, and the advice of the Secretaries of Commerce and Labor. Two years must elapse following the expiration of any relief granted under section 203 before a new investigation of the same industry under section 201 can take place.

The Tariff Commission must keep developments in the industry under review while import relief is in effect, including progress and efforts by the industry to adjust to import competition. The Commission must report these developments to the President at his request. The annual report requirement under present law has been burdensome and the data often do not change sufficiently to warrant such frequent investigations. It must also advise the President, upon his request or on its own motion, of the probable economic effect on the industry of reducing or terminating import relief.

The domestic industry may file a petition with the Tariff Commission between six and nine months prior to expiration of the initial period of relief requesting an extension of relief. The Commission must conduct an investigation, including public hearings, and advise the President on the probable economic effects on the industry of terminating the initial relief. The domestic industry cannot petition the Tariff Commission, however, with respect to the phasing down of relief.

The President may extend the relief if he determines it is in the national interest after taking into account the Tariff Commission advice and the considerations under section 202. The extended relief cannot be greater than the level which was in effect immediately prior to the extension. For example, if a duty of 10 percent ad valorem was increased to 40 percent as import relief and phased down beginning in the third year to 20 percent ad valorem in the fifth year, then the extension of relief in the sixth and seventh years would be at the 20 percent level.

The purpose of these provisions is to provide incentives for the domestic industry to utilize effectively the period in which it receives relief to adjust to new competitive conditions. The time limits on the duration of relief and its phasing out are designed to emphasize that relief is only temporary in nature and is granted in order to provide a reasonable period for the industry to adjust to import competition.

B. ADJUSTMENT ASSISTANCE FOR WORKERS (SECTIONS 221–250)

The Trade Reform Act contains major changes in the adjustment assistance provisions under present law for workers and for firms. The purpose of these programs is to assist groups of workers and individual firms to adjust to increased competition when they are adversely affected by imports, whether or not the domestic industry as a whole is seriously injured by imports and therefore not qualified for import relief measures.

The adjustment assistance provisions for workers under Chapter 2 of Title II depart significantly from and in fact replace the current program under the Trade Expansion Act. The reforms are intended to correct the major deficiencies under present law and to create a viable assistance program through:

1. Liberalization of the criteria for workers to be certified as eligible to apply for adjustment assistance. The easier access requirements are similar to the changes in the eligibility criteria for import relief: (a) the requirement of a "causal link" between increased imports and previous trade agreement concessions is eliminated; and (b) increased imports need only "contribute importantly" to rather than be the "major" cause of unemployment or underemployment and of the decline in sales and/or production of the firm or subdivision.

2. A streamlined petitioning process to expedite the consideration of petitions and to provide program benefits in time to be of maximum benefit. The consolidation of the entire worker adjustment assistance program in the Department of Labor will eliminate the delays currently resulting from separate Tariff Commission and Labor Department investigations and determinations.

3. Increased benefit payments, and improvement of other adjustment services and allowances to promote the rapid reemployment of workers.

1. Eligibility requirements and procedures

A group of workers, their union, or another duly authorized representative may file a petition with the Secretary of Labor for certification of eligibility to apply for adjustment assistance. It is intended that a group of three or more workers in a firm may qualify as a petitioner. It is also intended that the filing requirements be minimal so that normally a petition will be considered filed upon receipt.

The Secretary of Labor must promptly publish a notice in the Federal Register of having received the petition and having initiated an investigation. He must provide for a public hearing if requested by an interested party within 10 days after the publication.

Within 60 days after the filing of the petition the Secretary of Labor must determine whether the petitioning group meets the eligibility criteria and issue a certification of eligibility to apply for adjustment assistance if the requirements are met. A summary of the determination will be published promptly in the Federal Register. If the determination is affirmative, the Secretary would issue a certification and the summary would be of the certification.

The additional investigations and determinations by the Tariff Commission under section 302 of the Trade Expansion Act are eliminated. In normal cases it has taken about three months from filing of a petition to certification under present procedures. Even longer delays have resulted in the case of evenly divided Tariff Commission findings.

The Secretary of Labor must determine that all of the three criteria are met in order to certify a group of workers as eligible to apply for adjustment assistance:

1. A significant number or proportion of workers in the firm or its subdivision have become or are threatened to become totally or partially separated. This criteria would be understood to be met if the total and/or partial separation in a firm or subdivision is equivalent to a total unemployment of five percent of the workers or 50 workers, whichever is less. Since many firms employ fewer than 50 workers, there may be cases in which as few as three workers in a firm or subdivision constitute a significant number or proportion of the workers.

2. Sales and/or production of the firm or subdivision have decreased absolutely.

3. Increased imports (on an industry basis) of articles like or directly competitive with those produced by the firm or subdivision contributed importantly to factors 1 and 2 above. The requirement under present law to show that increased imports resulted in major part from trade agreement concessions is eliminated.

The requirement that imports "contribute importantly" is far less a stringent criteria than the current requirement that imports constitute the "major" factor. It is also an easier standard to meet than the "substantial cause" test for import relief under section 201. "Substantial cause" involves a dual test, which includes the concept "important" but also requires that increased imports be no less than any other single cause. Under the adjustment assistance criteria imports must be more than a de minimus cause, but they may have contributed importantly even though less than another single cause.

It is the Administration's intention to use trade adjustment assistance when increased imports have been an important cause of the job displacement and loss of sales and/or production if, for example, another cause such as flood or fire were so dominant that the result would have been essentially the same irrespective of the importance of increased imports as a factor. It is not the intention of the Administration to provide adjustment assistance to workers whose unemployment or underemployment is clearly the result of normal seasonal or cyclical factors, of shifts in technology, or of domestic competition. The regular unemployment insurance and manpower programs are designated to deal with these types of displacement problems.

The certification of eligibility to apply for adjustment assistance will specify the earliest date on which any part of the separations involving a significant number or proportion of workers began or threatened to begin (the "impact date"). The date on which they threaten to begin is when the separations could be reasonably predicted to be imminent. The certification is of continuing nature and covers workers totally or partially separated between the impact date and termination of the certification. The certification of eligibility cannot apply to any worker who was totally or partially separated more than one year before the date of the petition or more than six months before the new program under the Trade Reform Act goes into effect.

The Secretary of Labor must terminate the certification whenever he determines the separations are no longer attributable to the conditions under the eligibility criteria. A notice of the termination will be published in the Federal Register. The termination will apply only to separations after the termination date. It will not affect the eligibility of workers separated before that date to apply for and receive assistance.

The Tariff Commission will notify promptly the Secretary of Labor when it begins an import relief investigation under section 201. The Secretary of Labor will then study the availability of adjustment assistance to workers in the domestic industry and the extent to which existing programs may facilitate worker adjustment to import competition. He will submit a report to the President within 15 days after the Tariff Commission submits the report of its investigation under section 201. The Secretary will publish a summary of the report in the Federal Register. If the Tariff Commission finds serious injury to the domestic industry, the Secretary of Labor will, to the extent feasible, fully inform workers in the industry of adjustment programs and assist them in preparing and processing petitions and applications for program benefits.

2. Benefit payments

The qualification requirements for individual workers to receive adjustment assistance benefits will be easier to meet than under the present law. An individual worker covered by a certification must file an application for benefit payments with a cooperating State agency. In order to qualify he must have been employed at wages of $30 or more per week, with a single adversely affected firm for at least 26 weeks of the 52 weeks immediately preceding his separation, or, if data with respect to weeks of employment are not available, equivalent amounts of employment computed under regulations by the Secretary of Labor.

His last total or partial separation prior to his application must have occurred on or after the "impact date", within two years after the certification was issued, and before the termination date (if any) of the certification. Under present law the worker has to be employed at least 78 of the 156 weeks immediately preceding separation at wages of at least $15 a week, of which 26 of the immediately preceding 52 weeks has to be with one or more adversely-affected firms.

Weekly trade readjustment allowances are more liberal as compared to those under the Trade Expansion Act:

	1974 Trade Reform Act	1962 Trade Expansion Act
Basic benefits:		
Percent of average weekly wage:		
First 26 weeks	70	65
Up to 26 additional weeks	65	65
Maximum weekly benefit based on average weekly manufacturing wage	[1] 100	[2] 65

[1] Estimate $170.
[2] Estimate $111.

Note: Benefits for workers over 60 years of age, 13 additional weeks. Benefits to complete training, up to 26 additional weeks.

The new program contains provisions similar in nature to those under the Trade Expansion Act to deduct worker earnings and unemployment insurance from trade readjustment allowance payments. The purpose of these provisions is to create incentives for workers to seek reemployment as soon as possible, for low and medium wage workers to supplement the readjustment allowance by part-time earnings, and to prevent workers earning high average weekly wages from continuing to receive adjustment assistance benefits.

3. Reemployment services and allowances

The Trade Reform Act places renewed emphasis on employment services, training, manpower programs, and relocation benefits. These provisions are designed to promote rapid reemployment of workers in jobs best suited to their present or potential skills.

The Secretary of Labor must make every reasonable effort to obtain counseling, testing, placement, and supportive and other services provided under any Federal law for certified workers through State agencies whenever appropriate.

These supportive and other services will include to the extent provided in Federal law, services such as work orientation, basic education, communication skills, employment skills, minor health services, and other services necessary to prepare a displaced worker for full employment in accordance with his capabilities and employment opportunities.

The Secretary of Labor will provide or assure appropriate training through manpower programs if he determines that suitable employment is not available for a certified worker but would be available as a result of training. The programs will include training for technical and professional occupations.

The Secretary of Labor may authorize supplemental assistance payments to defray transportation and subsistence expenses if the training is not within the worker's commuting distance. These payments are limited to a maximum of 10 cents per mile for transportation and $5 per day for subsistence. As under current law, a worker will be disqualified from receiving any benefit payments during any period of time that he refuses without good cause to accept or continue training or fails to make satisfactory progress in the training to which he has been referred.

Job search allowances are provided for the first time in the readjustment assistance program. The purpose of the allowance is to encourage workers to seek employment as quickly as possible in other locations when none is available locally. A certified worker may file an application with the Secretary of Labor for a job search allowance, which reimburses the worker for 80 percent of his necessary job search expenses up to a maximum of $500. The worker may receive an allowance only if it is to assist in obtaining a job within the United States, suitable employment within his commuting area cannot be reasonably expected, and he files the application within one year after his last total separation prior to his application for trade adjustment assistance.

Assistance allowances for relocation within the United States will be more readily available than under current law to certified workers who file an application with the Secretary of Labor. In order to qualify, the worker cannot be reasonably expected to obtain suitable employment within his commuting area, and he must have obtained suitable employment reasonably expected to be of long-term duration or have a bona fide offer of such employment. The worker will receive the relocation allowance only if he is entitled to a trade readjustment allowance for the week in which the application is filed. The relocation must also occur within a reasonable time after the filing of the application or the conclusion of training.

The new program liberalizes the present qualifications by deleting the head-of-household requirement. The allowances will be more readily available to single individuals who are more likely to be able to use them. Only one member of a family can receive an allowance for the same relocation. The allowance will consist of 80 percent of the reasonable and necessary expenses of transporting the worker, his family, and household effects, plus a lump sum payment of three times the worker's average weekly wage up to a maximum of $500.

4. Funding

Section 245 establishes a trust fund to finance the costs of the adjustment assistance program, including the administrative costs of the Department of Labor and the cooperating States. Training and other services will be funded under other programs, including revenue-sharing arrangements. Annual appropriations to the trust fund are authorized out of the general fund of the Treasury attributable to customs collections. The estimated total first-year cost of the program is about $320 million.

It is noted that weekly trade adjustment allowances should be supplementary to unemployment insurance payments received by workers so that State trust funds bear the costs of unemployment insurance payments to which workers would be entitled anyway in the absence of a trade adjustment assistance program.

C. ADJUSTMENT ASSISTANCE FOR FIRMS (SECTIONS 251–264)

Chapter 3 of Title II continues in improved form, the provision of assistance to firms to facilitate their adjustment to changes in import competition. The revisions of the present program are designed to simplify and expedite the consideration of petitions for certification of eligibility and the delivery of more effective and timely assistance to qualified firms.

The major changes to the firm adjustment assistance program are:

1. Liberalization of the criteria under which firms may be certified eligible to

apply for adjustment assistance. The new criteria (a) eliminate the "causal link" between increased imports and previous trade concessions; and (b) increased imports need only have "contributed importantly" to rather than constitute the "major" factor causing or threatening work separation and decreased sales and/or production of the firm.

2. Simplification of the procedural requirements to expedite the processing of petitions and applications and to enable the delivery of more timely and effective assistance. Responsibility for determining eligibility for assistance will be consolidated in the Department of Commerce, thereby eliminating the delays inherent in the separate investigations and determinations by the Tariff Commission under current law.

3. Emphasis on the provision of benefits to small and medium-sized enterprises which are the most likely firms to experience any adverse effects from increased import competition and be in need of adjustment assistance.

1. Eligibility requirements and procedures

A firm or its representative may file a petition for a certification of eligibility to apply for adjustment assistance with the Secretary of Commerce. He must promptly publish notice in the Federal Register of having received the petition and having initiated an investigation. The Secretary must provide a public hearing if the petitioner or another interested party submits a request within 10 days after publication of a notice.

The Secretary of Commerce must then make a determination and issue a certification or denial of eligibility to apply within 60 days after the filing of the petition. Under current law, the normal time from the filing of the petition to a certification by the Secretary of Commerce has been three to four months, with significant longer delays in those cases where applications followed findings of injury to an industry or evenly divided Tariff Commission findings.

The eligibility criteria are identical to those under the new worker adjustment assistance program:

1. A significant number or proportion of workers in the firm or subdivision have become or are threatened to become totally or partially separated;

2. Sales and/or production of the firm or subdivision have decreased absolutely; and

3. Increased imports of articles like or directly competitive with those produced by the firm or subdivision have contributed importantly to factors 1 and 2.

The requirement under present law that increased imports result in major part from previous trade agreement concessions is deleted. The requirement that increased imports "contribute importantly" to the actual or threatened separation of a significant number or proportion of workers in the firm and to the absolute decrease in the sales and/or production of the firm has the same meaning and interpretation as under worker adjustment assistance. The same contrast with the term "substantial cause" under the new import relief provisions also applies.

As in the case of worker adjustment assistance, it is the Administration's intention to use firm adjustment assistance when increased imports have been an important cause of the worker displacement and decline in sales and/or production of the firm. Imports would not have "contributed importantly" to unemployment or underemployment or the loss of sales and/or production if, for example, another cause were so dominant that the result would have been essentially the same irrespective of the importance of increased imports as a factor. It is not the Administration's intention to provide adjustment assistance to firms when their difficulties are clearly the result of normal seasonal or cyclical factors, of shifts in technology, or of domestic competition.

As under the Trade Expansion Act, a firm may file an application for adjustment assistance following certification of eligibility at any time within two years after the date of the certification. The firm must accompany the application with a proposal for its economic adjustment. The Secretary of Commerce will approve the application and provide assistance only if he determines that the firm satisfies the following criteria:

1. The firm must have no reasonable access to financing through the private capital market. This requirement, which is similar to a provision under current law, is designed to orient the program to small and medium-sized firms, which are most likely to be in need of Government assistance. It also precludes a firm from obtaining Government funds if it can obtain all necessary financing from private sources at reasonable rates of interest. It does not preclude Government assistance if the firm is only able to obtain a portion of the needed funds from private sources.

2. The firm's adjustment proposal must be reasonably calculated to contribute materially to its economic adjustment, give adequate consideration to the interests of the workers in the firm, and demonstrate that the firm will make all reasonable efforts to use its own resources for economic development. These provisions are virtually identical to those under the Trade Expansion Act.

The Secretary of Commerce will terminate the certification of eligibility whenever he determines the firm no longer requires assistance. He must publish notice of the termination in the Federal Register.

The Secretary of Commerce, upon notification by the Tariff Commission that it has begun an import relief investigation under section 201, must conduct a study of the firms in the domestic industry which may be affected, their eligibility for adjustment assistance, and the extent to which existing programs may facilitate the orderly adjustment of firms to import competition. The study must be submitted to the President within 15 days following submission of the Tariff Commission report. This is similar to a requirement imposed on the Secretary of Labor under the new worker adjustment assistance provisions.

If the Tariff Commission makes an affirmative injury finding under section 201, the Secretary of Commerce must, to the extent feasible, fully inform firms in the industry of available programs to facilitate their orderly adjustment. He must also assist them in preparing and processing petitions and applications for program benefits. As under the worker program, the purpose of these provisions is to anticipate trade-impact problems in advance as much as possible rather than merely to react to them after the fact, and to make firms and workers aware of available adjustment programs and benefits.

2. Adjustment assistance benefits

Adjustment assistance to qualified firms consists of technical and/or financial assistance. *Technical assistance* may consist of assistance to the firm in developing viable economic adjustment proposal and/or assistance in the implementation of the proposal. It will be furnished through existing agencies and through private individuals, firms, and institutions. Firms are expected to share the cost of technical assistance to the extent possible and, in any event, the Government cannot bear more than 75 percent of the total cost of assistance from nongovernment sources. If a firm cannot afford to pay any of the costs, the Government may extend the total amount if there is adequate provision to ensure repayment of at least 25 percent of the total.

Financial assistance may take the form of direct loans or guarantees of loans as the Secretary of Commerce judges will materially contribute to the economic adjustment of the firm. Financial assistance can be provided only for the purposes of (1) acquiring, constructing, installing, modernizing, developing, converting, or expanding land, plant, buildings, equipment, or facilities; or (2) to supply working capital necessary to enable the firm to implement its adjustment proposal.

Since working capital is the most frequent problem encountered by adversely-affected firms, the new provisions remove the requirement under current law that financial assistance be supplied for working capital only in exceptional cases following a determination by the Secretary of Commerce. The requirement that funds not be available from the firm's own resources and that there be reasonable assurance of repayment of the loan are similar to present criteria.

The total amount of *direct loans* outstanding to any individual firm at any time cannot exceed a maximum of $1 million. Direct loans cannot be provided to the extent that the firm can obtain loan funds, with or without a guarantee, from private sources at a rate of interest up to the maximum permissible in the case of loans to small businesses guaranteed by the Small Business Administration (SBA).

Currently, section 255(b) states that the rate of interest on direct loans shall be the prevailing rate authorized for loans to small businesses by the SBA. The SBA has several rates for direct loans. One is 5.5 percent, another is 5 percent, and yet another is 3 percent. Still others are formula rates of interest, i.e. cost of money to the Government plus a small additional fraction to cover administrative costs. These formula rates of interest are currently applicable to loans to small businesses which are impacted by Federal urban renewal, highway or other construction projects, Federal health, welfare and safety legislation (or State legislation enacted in conformity therewith), and United States Government international strategic arms limitation agreements.

These formula rates are applied in cases which are analogous to trade adjustment assistance, and therefore the ambiguity should be resolved in favor of a for-

mula rate. The Administration proposes the amendment of section 255(b) to make it clear that the interest rate applicable to direct loans is a formula rate. The language establishing a maximum rate for guarantees of loans under this chapter has been clarified by citing the basis for SBA's guarantee rate.

The total amount of *loan guarantees* which may be outstanding to any single firm at any one time is a maximum of $3 million. As under the Trade Expansion Act, the Government may guarantee up to 90 percent of the portion of the loan which is made for adjustment assistance purposes. The interest rate will be no higher than the maximum permissable commercial rate for loans guaranteed by the SBA. Both direct loans and loan guarantees are limited in normal cases to a maximum maturity of 25 years, as under present law.

The maximum limits on the amount of direct loans and loan guarantees, and the priority which the Secretary of Commerce must give to firms which are small within the meaning of the Small Business Act emphasize the intention to concentrate the program on small and medium-sized firms. With respect to small firms, the Secretary of Commerce may delegate all or any part of his functions other than certification of eligibility to the Administrator of the SBA.

An Adjustment Assistance Coordinating Committee established under section 250, to be chaired by a Deputy Special Trade Representative and including representatives of the Departments of Labor and Commerce and the SBA, will coordinate the adjustment assistance policies and programs of the various agencies to promote efficient and effective delivery of benefits.

Title III—Relief From Unfair Trade Practices

While Title II is directed toward providing more effective domestic safeguard measures to facilitate orderly adjustment to fair import competition, Title III authorizes measures against *unfair* trade practices of foreign countries.

Four principle present laws are revised under Title III: (1) The authority under section 252 of the Trade Expansion Act to take retaliatory action against unreasonable or unjustifiable foreign trade restrictions or other acts which discriminate against or otherwise burden United States trade; (2) the authority under the Antidumping Act, 1921, to impose dumping duties when the Secretary of the Treasury determines imports are entering at less than fair value, and when the Tariff Commission determines that such imports are causing injury to the domestic industry; (3) the authority under section 303 of the Tariff Act of 1930 to impose countervailing duties when the Secretary of the Treasury determines that dutiable imports are receiving a bounty or grant; and (4) The authority under section 337 of the Tariff Act of 1930 for the President to exclude imports of articles subject to unfair methods of import competition.

The overall purpose of the amendments to these laws under Title III is to promote the development of a more equitable and less discriminatory international trading system. Improved authorities are needed to enable more effective action to deal with unjustifiable or unreasonable foreign trade practices which violate the principles of fair competition both in United States markets and abroad and thereby unfairly prejudice the ability of the United States to compete or to obtain access to markets or supplies.

A. Foreign Import Restrictions and Export Subsidies (Section 301)

Under section 252 of the Trade Expansion Act, the President has discretionary authority to take retaliatory action against unjustifiable or unreasonable foreign import restrictions or discriminatory or other acts or policies which restrict or substantially burden United States commerce. Section 301 of the Trade Reform Act simplifies section 252, removes the defects, and strengthens and broadens the authority to take retaliatory action to safeguard United States trading interests against unjustifiable or unreasonable foreign trade practices which impair the value of trade commitments by foreign countries, displace competitive United States products at home or abroad, or otherwise burden, restrict, or discriminate against United States commerce.

The new section (1) removes the distinction under section 252 between agricultural and nonagricultural products to provide equal authority for all products; (2) strengthens the retaliatory measures which may be taken by removing the present statutory limits on tariff increases in the case of nonagricultural products and unreasonable restrictions; (3) extends the authority to cover foreign subsidies on exports to the United States or to third countries which substantially reduce sales of competitive United States products; and (4) requires

the consideration of United States international obligations before taking action in all cases. In addition, section 301 includes new procedures under which Congress may disapprove of any measure imposed by the President.

The purpose of these changes is to strengthen the retaliation authority as a lever for resolving international trade disputes in an effective and even-handed manner and for obtaining compliance by foreign countries with international trading rules and practices. The authority under section 252 has been invoked only once, in the so-called Chicken War. It has provided a useful behind-the-scenes tool on a number of other occasions, however, for international settlement of trading problems without formal invocation becoming necessary.

Section 301 requires the President to take all appropriate and reasonable steps within his existing authority to obtain the elimination of (1) unjustifiable or unreasonable import restrictions which he determines impair the value of trade concessions to the United States or burden, restrict, or discriminate against United States trade; (2) unreasonable or unjustifiable discriminatory or other acts or policies which burden or restrict United States trade; or (3) foreign subsidies on exports to the United States or to third countries which substantially reduce sales of competitive United States products in the United States or in these third country markets. In addition, the President may (1) suspend, withdraw, or prevent the application of trade agreement benefits to the country; and (2) impose duties or other import restrictions on the products of the country for an appropriate period of time.

As under the present section 252, the term "unjustifiable" refers to restrictions which are illegal under or inconsistent with international obligations, such as violations of a country's obligations to the United States under the GATT. The word "unreasonable" refers to restrictions, acts, or policies which are not necessarily illegal, but which are generally regarded as unfair either under international agreements or in the actual practice of nations. For example, actions equivalent to those which could be considered as nullification or impairment of benefits within the meaning of GATT Article XXIII would be "unreasonable." The President will make the judgment as to what constitutes an unjustifiable or unreasonable measure, without a requirement for a GATT determination.

Section 301 removes the distinction under present law between agricultural and nonagricultural products. Under present law, the President has greater authority to retaliate against unjustifiable foreign practices on agricultural products than on nonagricultural products. Responses to either unjustifiable practices on nonagricultural products or unreasonable practices on any product are limited to suspending, withdrawing, or preventing the application of trade agreement concessions. Section 301 provides comparable authority applicable to all products and unfair foreign practices. The removal of these distinctions under present law is necessary since the detrimental effects on United States trading interests may be as great in any case.

Section 301 enhances the retaliatory power by removing the ceiling on the amount of tariff increases which may be imposed. Under present law, the President's retaliatory action is limited to the imposition of additional duties up to the Column 2 levels, except in the case of agricultural products. The withdrawal of tariff concessions consequently varies as an effective remedy in each case, depending on the level of the Column 2 rates on the products for which the offending country is the principal supplier. In some cases, these rates are very low and, therefore, provide only very limited authority to deal with unreasonable practices or with unjustifiable restrictions on nonagricutural products. There may also be cases for which quotas are a more effective response, for example, if the foreign country imposes an illegal quota on certain United States exports.

Under present law, the President must have due regard for United States international obligations in taking retaliatory action against unreasonable restrictions. In determining what action to take under section 301, the President must consider the relationship to United States international obligations as well as the purposes of the Trade Reform Act in all cases.

This requirement shall not constitute a limitation on the legal scope of the President's authority to take action in the national interest. The consequences of imposing retaliatory measures and of non-compliance with international obligations dictate, however, that the President would resort to action which is inconsistent with international obligations only on a matter of important principle and in the national interest, where effective international procedures for dealing with the problem are not available and only after all other possible measures

which are consistent with international obligations are considered and are judged inadequate to remedy the problem.

Actions under section 252 may be applied on either a most-favored-nation or a non-MFN basis but the statute is not explicit on the point. Section 301 provides explicit authority to apply actions on a most-favored-nation basis or only against imports from the offending country in the case of unjustifiable restrictions or policies. If the restriction is unreasonable but not unjustifiable, the action must be taken only against the offending country. A nondiscriminatory response is made by selecting articles of particular interest to the offending country. Where retaliatory action is taken on a nondiscriminatory basis, the President may carve-out from tariff classifications articles on which concessions may be withdrawn or suspended or on which duties or other import restrictions may be imposed, so as to minimize the adverse impact on nonoffending countries.

The Administration proposes an amendment to section 301 to remove the requirement for United States action on a selective basis in response to unreasonable but not unjustifiable import restrictions. There is no clear logical basis for distinguishing between foreign unjustifiable and unreasonable trade practices to warrant the requirement that the response in the latter case be on a selective (nondiscriminatory) basis.

Included in section 301 is the authority to take effective unilateral action in any situation if the United States cannot obtain a solution in the GATT to foreign trade practices which are inconsistent with international trading rules or which otherwise unreasonably or unjustifiably impair United States export opportunities. The language of section 301 clearly provides sufficiently broad authority for the United States to retaliate through imposition of duties or other import restrictions against unfair foreign export controls on essential raw materials or other products and against other unfair denials of access to supplies, including foreign discriminatory actions. It would, for example, provide authority to take effective unilateral action in response to such practices as unrealistic competitive depreciation or devaluations designed to achieve a trade advantage for foreign exports vis-a-vis United States exported goods.

Section 301 also extends the retaliation authority to cover foreign export subsidies to third countries and to the United States which displace competitive United States products. This authority will provide the United States additional negotiating leverage to obtain an international agreement on subsidy practices. It will also provide an additional deterrent to subsidies on exports to the United States by enabling the President to go beyond a mere offset of the foreign subsidy under the countervailing duty law by imposing additional duties or other import restrictions of a greater amount.

The countervailing duty statute will remain the primary recourse to deal with foreign bounties or grants on products exported to the United States. Consequently, section 301 can be used for this purpose only if (1) the Secretary of the Treasury determines that a subsidy or another incentive having the effect of a subsidy exists on such exports; (2) the Tariff Commission finds that the subsidized exports substantially reduce sales of competitive products made in the United States; and (3) the President determines that the Antidumping Act and the countervailing duty law provide insufficient remedies to deter the subsidies.

Section 301 includes procedural requirements for public participation in and Congressional oversight of actions under the authority.

1. The President must provide an opportunity for interested persons to present their views, including public hearings upon request, concerning foreign restrictions, acts, or policies which fall within the scope of section 301, and with respect to taking retaliatory action on the product involved. These provisions provide domestic interests an opportunity to bring restrictive foreign practices and their views on the consequences of taking or not taking retaliatory action to the attention of Government officials. The President may also request the views of the Tariff Commission as to the probable impact on the domestic economy of taking action on the particular product.

The Administration proposes an amendment to section 301(d) that would allow the President to retaliate or respond quickly to a foreign action when it is in the best interests of the United States, without the necessity of a prior public hearing. The President would still be required to provide a public hearing, but it would not have to be held prior to his action.

2. Any retaliatory action taken by the President is subject to a Congressional veto procedure, similar to that which applies to the imposition of quotas or

orderly marketing agreements as import relief under section 203. Section 302 requires the President to report import restrictions imposed under section 301 to both Houses of Congress with a statement of his reasons for taking the action. The action will terminate if either House passes a disapproval resolution by a majority of those present and voting within 90 days after submission of the report.

B. ANTIDUMPING DUTIES (SECTION 321)

Under the Antidumping Act, 1921, special dumping duties may be imposed on imports of any articles which the Secretary of the Treasury determines are being sold or are likely to be sold at less than fair value if the Tariff Commission determines that a domestic industry is being injured or is likely to be injured or prevented from being established because of such imports. A dumping duty is imposed on imports covered by the finding if the purchase price or exporter's sales price is less or likely to be less than the foreign market value or, if it cannot be determined, the constructed value.

Section 321 of H.R. 10710 contains several amendments to the Antidumping Act which codify some existing Treasury practices and others which make certain changes of a basically procedural and technical nature: (1) A requirement that published determinations of the Treasury and the Tariff Commission contain statements of findings and conclusions with the reasons and bases therefor on all the material issues of fact or law presented; (2) imposition of time limits for the Secretary of the Treasury to determine whether there is reason to believe or suspect dumping; (3) a requirement for a hearing prior to the Treasury and Tariff Commission determinations; (4) technical amendments to the definition of "purchase price" and "exporter's sales price"; and (5) two amendments dealing with the determination of foreign market value. The purpose of the changes is to improve further the effective administration of the Antidumping Act and to ensure domestic producers adversely affected by dumped imports of vigorous and timely relief.

1. Detailed statement of reasons

Section 321 amends section 201 of the Antidumping Act to require the Secretary of the Treasury and the Tariff Commission, upon making a determination, to include in their published determination a detailed statement of the bases for their findings and conclusions on all material issues of fact or law presented. This change will make the administration of the Act a more open and understandable process than has been the case in the past. It provides vital information to all concerned with antidumping investigations, while still preserving the confidentiality of detailed business information acquired by the Treasury and the Tariff Commission in the course of their investigation.

2. *Time limits*

Section 321 amends section 201 of the Antidumping Act to require the Secretary of the Treasury to determine whether there is reason to believe or suspect imports of an article are or are likely to be entering at less than fair value within six months after a question of dumping is raised or presented, or within nine months in more complicated investigations. Final determinations by the Secretary, whether affirmative or negative, are required by the Treasury Department's Antidumping Regulations to be made within three months after the above preliminary determination. Since the three-month period for the injury determination by the Tariff Commission would be maintained, final action on an antidumping investigation would take place within 12 months in normal cases and not exceeding 15 months in more complicated cases. Amendments to Treasury Antidumping Regulations which were put into effect in January 1978 provide for the Treasury portion of the processing of applications to be completed in nine months in normal cases, 12 months in more complex ones. This has greatly reduced the length of time for completing investigations and has brought about an appreciable increase in the number of determinations issued.

Notice of all significant actions in the decision-making process, such as tentative and final negative determinations or tentative and final discontinuances of investigations must be published in the Federal Register. The Secretary may order publication of a notice of withholding of appraisement within three months after publication of notice of a tentative negative determination if he has reason to believe or suspect dumping. In this case, the withholding is treated in the same manner as in the case of an affirmative determination. If no withholding is ordered within the three-month period, the Secretary must issue a

final negative determination or a notice of discontinuance of the investigation. These time limits largely parallel those under present Antidumping Regulations.

Section 201 of the Act is also amended to provide that the date of the Federal Register notice that information relating to dumping has been received in accordance with regulations is the date that the question of dumping will be considered raised or presented to the Secretary. Current Treasury regulations provide that this notice will generally be published within 30 days after receipt of information in an acceptable form.

3. Hearings

Section 321 provides a new requirement under the Antidumping Act whereby both the Secretary of the Treasury and the Tariff Commission must hold a hearing prior to their determinations. Under current regulations, interested parties have an opportunity to be heard only at the discretion of the agency. In order to preserve the informal, non-adversary nature of the hearing and to facilitate rapid and fair investigation, the hearings will be specifically exempted from the procedural requirements of the Administrative Procedure Act. A transcript of the hearing plus all information developed in connection with the investigation will be publicly available, excluding only detailed business information which must be kept confidential to protect all parties concerned with the investigation and information exempt from disclosure under the Freedom of Information Act.

4. "Purchase price" and "exporter's sales prices"

Section 321 contains several technical amendments to the definitions of "purchase price" and "exporter's sales price" under section 203 and section 204 of the Act:

1. Any export tax will be *subtracted* from the purchase price rather than *added* to it in making the necessary calculations to compare prices. This amendment corrects an error in the statute and makes the purchase price treatment of export taxes comparable to that under the definition of exporter's sales price, which already provides for the subtraction of any export tax included in the price to the United States. If the export tax is not subtracted, it would distort any comparison between the export price to the United States and the home market price of a particular product, thereby artificially reducing or eliminating any dumping margin that might otherwise exist.

2. The definitions of both "purchase price" and "exporter's sales price" are amended to harmonize the treatment of foreign tax rebates under the Antidumping Act with the standard for their treatment under the countervailing duty law. No adjustment for tax rebates to the advantage of the foreign exporter will be permitted unless the direct relationship between the tax and the exported product or its components can be demonstrated. For example, if the exported product benefited from a tax rebate on the mortgage on the plant that produced it, the rebate could not be used in the computations to reduce the dumping margin. Moreover, an adjustment for a tax rebate will be permitted only to the extent such taxes are added to or included in the price of the merchandise when sold in the home market. To the extent the exporter absorbs indirect taxes in sales in the home market, no adjustment will be made to purchase price. The effect will be to increase the size of dumping margins under such circumstances.

3. Merchandise benefiting from tax rebates which the Secretary of the Treasury has already determined are a bounty or grant, and thus subject to countervailing duties, will not be unfairly penalized by being also subject to antidumping duties by virtue of the same tax rebates.

In addition, the exporter's sales price computation is amended to provide for the subtraction of the value added when merchandise subject to a dumping finding is imported by a person or corporation related to the exporter and then sold to an unrelated purchaser in the United States. This amendment codifies existing regulations and ensures that merchandise imported in an exporter's sales price situation and then changed in form or condition before being resold to an unrelated purchaser is within the purview of the Act. The amendment will not apply if the resold product does not contain more than an insignificant amount by quantity or value of the imported merchandise.

5. Foreign market value

Section 321 also contains two amendments to section 205 of the Antidumping Act for the determination of foreign market value:

1. Sales in the home market of the country of export or to countries other than the United States may be disregarded in certain situations if the sales prices

represent less than the cost of producing the merchandise. If the Secretary of the Treasury determines there are sales below cost, he will disregard them in determining foreign market value if (a) such sales have been made over an extended period of time and in substantial quantities; and (b) the sales are not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade.

For example, obsolete or end-of-model year merchandise is frequently sold below cost, and initial prices of products involving large research and development expenditures may not reflect all overhead costs. The former types of sales will not be disregarded if they are normal in the trade and not made in substantial quantities over an extended period of time. The latter types of sales will not be disregarded if the sales prices permit recovery of all costs based on anticipated sales over a reasonable period of time. On the other hand, systematic sales at prices which will not permit recovery of all costs of production will be disregarded. If the Secretary of the Treasury determines that the exclusion of sales below cost results in an insufficient number of sales at or above cost, in either the home market or to third countries, to provide an adequate basis to compare prices, the Secretary will determine that no foreign market value exists and will resort to constructed value for a comparison with purchase price or exporter's sales price.

The purpose of the amendment is to prevent foreign sales below cost of production being used as the basis for determining whether sales of such merchandise to the United States are at less than the foreign market value. Otherwise, sales below cost to purchasers in the United States could be exempted from the provisions of the Act if sales prices in the home market or to third countries are also below cost by an equal or greater amount.

2. A foreign manufacturer will be found to have sold merchandise in the United States at less than the foreign market value only if its price to purchasers in the United States is lower than that of the same or similar merchandise sold by the same manufacturer in the home market or to third countries. Constructed value will be used if no sales or an insignificant number of sales are made to countries other than the United States.

The purpose of this amendment is to remove occasional inequities under the present law. There are cases in which one manufacturer's sales prices to the United States must be compared with sales prices of a different manufacturer in the home market of the country of exportation if the first manufacturer makes no or insignificant sales of the merchandise in the home market. Consequently, a manufacturer's exports to the United States may be subject to dumping duties under situations he cannot control and even though his sales to the United States are at prices higher than those to any other market. Once subject to a finding, he continues at a serious disadvantage by being unable, without violation of antitrust laws, to obtain the home market prices of his competitor in order to eliminate dumping margins from his sales to the United States under the Act. Conversely, a manufacturer who sells only to the United States and third countries presently could escape liability if Treasury were forced to use the home market prices of a different manufacturer rather than what might be the higher sales prices of the first manufacturer to third countries.

Existing practice under Treasury regulations with respect to dumping of merchandise from state-controlled economies will be codified. If the economy of the exporting country is controlled to the extent that price determinations cannot be made in accordance with the normally applicable rules, the Secretary of the Treasury bases sales at less than fair value determinations on prices at which similar merchandise of a non-state-controlled economy is sold in the home market or to third countries, or on the basis of the constructed value of the merchandise in non-state-controlled economy.

C. COUNTERVAILING DUTIES (SECTION 331)

Under section 303 of the Tariff Act of 1930, the Secretary of the Treasury is required to impose a countervailing duty whenever he determines that a bounty or grant has been paid, directly or indirectly, on any dutiable imported merchandise. The countervailing duty is equal to the amount of the bounty or grant and is collected in addition to the normal customs duty on the article.

Section 331 of the Trade Reform Act makes several important changes in the present countervailing duty statutes: (1) imposes a time limit on making determinations of whether a bounty or grant exists; (2) broadens the scope of

the statute to cover imports of duty-free articles if there is also a determination of injury; (3) grants temporary, and in certain cases permanent, discretionary authority for the Secretary of the Treasury to refrain from imposing countervailing duties; and (4) provides for judicial review of negative countervailing duty determinations.

1. Time limits

While the imposition of countervailing duties following a determination that a bounty or grant exists is mandatory under the present law, there is no period of time specified for the Secretary of the Treasury to make such a determination. Section 331 requires the Secretary of the Treasury to determine whether a bounty or grant exists within 12 months after the question is presented. The Treasury Department will issue new regulations to require the Commissioner of Customs to determine within 30 days after the information is received whether it is adequate to proceed with an investigation. The date of publication of a countervailing duty proceeding notice will trigger the initiation of the 12-month period for the formal countervailing duty investigation. All Treasury decisions in countervailing duty investigations, whether affirmative or negative, must be published in the Federal Register. A countervailing duty order requiring the assessment of duties equivalent to the amount of the bounty or grant will become effective 30 days following the publication in the Federal Register.

2. Duty-free imports

Section 331 extends the application of the countervailing duty law to non-dutiable items, including imports made duty-free as a result of generalized tariff preference treatment under Title V, if the Tariff Commission determines that a domestic industry is being or is likely to be injured or is prevented from being established as a result of the imports benefiting from the bounty or grant. The Tariff Commission must make its finding within three months after the Treasury decision that a bounty or grant is being paid or bestowed. All affirmative and negative determinations by the Tariff Commission will be published in the Federal Register.

If Treasury determines that a bounty or grant is being paid or bestowed on duty-free imports, it must suspend liquidation of imports of the merchandise which enter or are withdrawn from warehouse for consumption on or after the 30th day following publication of the determination in the Federal Register. The countervailing duty order following an affirmative injury determination by the Tariff Commission will be effective as of the date of suspension of liquidation. The purpose of the suspension is for affirmative determinations on duty-free imports to become effective on the same date as affirmative determinations by the Secretary of the Treasury with respect to dutiable imports.

The law is extended to cover non-dutiable items because of the much greater volume of duty-free imports, some of which are competitive with domestic production, following several rounds of tariff negotiations since the law went into effect in 1930. Duty-free imports will increase further as a result of generalized tariff preferences under Title V and authority to eliminate certain tariffs under section 101.

The requirement for an injury determination by the Tariff Commission with respect to duty-free imports will remain in effect only as long as United States international obligations under the GATT require a material injury determination in countervailing duty cases. Since the United States countervailing duty law was in existence at the time the GATT was formed, the absence of an injury determination with respect to dutiable articles is consistent with United States international obligations. The GATT "grandfather clause" allows the continued application of certain mandatory legislation which predates the GATT. The GATT "grandfather clause" would not apply to an extension of the law to articles which were not covered by the original statute.

Section 331 as presently drafted requires the Tariff Commission to find only the presence of "injury" to the domestic industry. The Trade Reform Act as submitted by the Administration required the determination of "material injury," in order to be consistent with GATT Article VI, which requires "material injury" as a prerequisite to the application of countervailing duties. The Administration assumes that the Congress intends for the United States to comply with its international commitments in this regard and, therefore, that the injury requirement will in practice be administered in a manner consistent with the GATT requirement.

The mere enactment of the injury provision without the qualification "material" would not itself constitute a violation of the GATT. However, without that word in the statute, our foreign trading partners are likely to raise the issue whether the United States is living up to its international commitments with respect to each case in which countervailing duties are applied on a duty-free article. In order to avoid placing the United States in a defensive position on this issue, the Administration urges restoration of the "material" qualification in the statute to the injury requirement applicable to duty-free merchandise.

3. Discretionary application

Section 331 authorizes the Secretary of the Treasury to refrain from applying countervailing duties to imports which are subject to effective quantitative limitations upon importation or exportation. He must determine that the limitations are an adequate substitute for countervailing after seeking information and advice from appropriate agencies. The purpose of this provision is to avoid excessive trade restrictions that might result by countervailing on an article which is already subject to a quota or restraint arrangement.

In addition, section 331 grants the Secretary of the Treasury temporary discretionary authority for four years from the date of enactment of the Trade Reform Act not to impose countervailing duties if, after seeking information and advice from appropriate agencies, he determines that such imposition would be likely to seriously jeopardize satisfactory completion of trade negotiations under Title I. Similar discretionary authority is restricted to one year in the case of imports produced by facilities owned or controlled by the government of a developed country if the investment in or operation of the facilities is subsidized.

The purpose of the four-year discertionary authority is to provide latitude in assessing countervailing duties in cases where the Secretary of the Treasury concludes that a countervailing might well frustrate the successful outcome of the trade negotiations, particularly with respect to achieving an international agreement on the types of subsidization practices which would be considered permissible and nonpermissible. With the 12-months time limit for completing investigations, the United States could, without such discretionary authority, be forced to impose countervailing duties against a practice while it is the subject of negotiations and which might become a permissible export assist under an international agreement. The four-year limit on such discretionary authority could strengthen United States negotiating leverage for obtaining an international agreement.

On the other hand, the one-year limit on discretionary authority with respect to articles produced by a government-owned subsidized facility in a developed country poses very serious problems. Achieving international agreement on permissible and nonpermissible export subsidies is likely to be a difficult and long negotiation. There are many differences of opinion internationally on what constitutes an export subsidy and which specific practices should or should not be sanctioned. The United States itself utilizes certain types of export assists which foreign governments may well find contrary to international law or practice.

One year does not provide sufficient time to negotiate an agreement which would resolve all these issues. The requirement for mandatory application of countervailing duties after one year on one type of measure which could cover a broad range of products from a number of countries while negotiations are underway could seriously jeopardize attainment of an international agreement. The purpose of the four-year discretionary authority is to avoid imposing countervailing duty actions which would "seriously jeopardize" trade negotiations. It is irrelevant for these purposes whether the product exported to the United States is from a nationalized company. The one-year restriction of the Secretary's discretionary authority should be removed from the bill.

4. Judicial review

The fourth major change under section 331 to the present countervailing duty law is to provide for judicial review in the Customs Court (with appeal to the Court of Customs and Patent Appeals and, by certiorari, to the Supreme Court) of negative countervailing duty determinations by the Secretary of the Treasury. The amendment is necessitated by a 1971 decision of the Court which held that the right of judicial review of negative determinations is not available to domestic producers.

Section 516 of the Tariff Act of 1930 presently permits American manufacturers, producers or wholesalers to file a petition with the Secretary of the Treasury contesting import appraisement, classification, or duty assessment. If the Secretary of the Treasury agrees with the claims, he determines the proper appraisement, classification, or rate of duty, then notifies the petitioner and also publishes the determination in the Customs Bulletin. The determination applies to all merchandise entered after the date of publication of the notice.

The petitioner may file a notice to contest a negative decision on the claim by the Secretary of the Treasury within 30 days following notification of a negative decision. The Secretary must then publish his determination and the fact that the petitioner desires to contest the decision. Following a decision by the Customs Court in favor of the petitioner, liquidation of all entries of the merchandise is suspended pending a final judicial ruling. The merchandise becomes subject to the appraisement, classification, or rate of duty in accordance with the final court decision effective as of the date of the first decision.

These same procedures under section 516 of the Tariff Act of 1930 will apply to the right of judicial review of negative countervailing duty decision, except that notices of decisions by the Secretary of the Treasury will be published in the Federal Register. The court will determine whether or not a bounty or grant is being paid or bestowed on the particular merchandise. This amendment is consistent with the right of importers to judicial review of affirmative determinations under the countervailing duty law.

D. UNFAIR IMPORT PRACTICES (SECTION 337)

Section 337 of the Tariff Act of 1930 authorizes the Tariff Commission to investigate, on the basis of a complaint or on its own initiative, alleged unfair methods of competition and unfair acts in the importation or sale of imported articles in the United States. The Tariff Commission determines whether the effect or tendency of the methods or acts is to destroy or substantially injure a domestic industry, prevent the establishment of an industry, or restrain or monopolize trade and commerce in the United States. While the statute covers all methods of import competition, in fact virtually all cases under section 337 have involved patent infringement (unlicensed importation of articles falling within the claims of a United States letters patent).

If the President is satisfied that the statutory criteria have been met, he must issue an exclusion order barring imports of the article involved from entry until the conditions leading to the exclusion order no longer exist. Pending a full investigation, the President may issue a temporary exclusion order whereby imports of the article enter under bond payable to the United States.

Section 341 of H.R. 10710 makes no change in the existing provisions with respect to unfair import practices other than those relating to patent infringement. Section 341 does make three amendments to section 337 with respect to cases involving patent infringement:

1. It changes the roles and authority of the President and the Tariff Commission by vesting authority in the Tariff Commission rather than the President to issue an exclusion order following its investigation and finding that articles are imported or sold in violation of the statute based upon claims of United States letters patent.

The Tariff Commission may issue a temporary exclusion order following a hearing on the record during its preliminary inquiry or investigaton but prior to completion of the investigation, if it is satisfied from the information available to it that: (1) there is a probable violation of the statute; and (2) immediate and substantial harm would result to the domestic industry in the absence of exclusion. Imports may enter under bond until the investigation is completed.

Any temporary or final exclusion order will remain in effect until the Tariff Commission determines, upon request or its own motion, that the conditions leading to the order no longer exist. The Tariff Commission might terminate or suspend the order if, for example, a court of competent jurisdiction holds the patent involved in the order invalid or unenforceable or upon abandonment or unreasonable delay of the proceedings by the complainant prior to a final determination.

2. It provides the right of judicial review of either action or inaction by the Tariff Commission in the United States Court of Customs and Patent Appeals. The right applies to a complainant as well as an importer. While the present

statute provides for judicial review of Tariff Commission determinations, there is a serious legal question as to whether the Court has jurisdiction over such cases since the Tariff Commission's findings are advisory and not binding on the President. Following an exclusion order by the President, the exclusion of imports by Customs is subject to judicial review by the United States Customs Court. Section 341 removes the legal question and clearly provides for judicial review in the Court of Customs and Patent Appeals.

3. It expressly authorizes the Commission to take into consideration legal defenses including the enforceability of patents in reaching its determinations. Under present law, the Commission has considered United States patents valid unless a Court of a competent jurisdiction has held otherwise.

With regard to the provisions of section 341 as enacted by the House of Representatives, the Administration believes that two additional changes are necessary. The first change concerns the bonding procedures under a temporary exclusion order. The provisions of H.R. 10710 retain the language of the present statute which provides, in the case of a temporary exclusion order, for entry under bond as may be prescribed by the Secretary of the Treasury. Under current law, the bond runs to the United States Government in the amount of 100 percent of the domestic value of the imported article in question. This stringent standard has had the effect of precluding importers from bringing in any goods and has meant, in effect, that temporary exclusion has the same effect as a permanent exclusion. Consequently, the original intent of the statute to allow imports to continue while the investigation proceeds has been nullified.

To remedy this problem, the Administration proposed a new bonding procedure but the provisions were deleted during consideration of the bill in the House. Taking into account the objections to that proposal, the Administration has reformulated the provisions and is recommending an amendment to provide that the bond (1) shall be prescribed by the Secretary of the Treasury; (2) shall be in the amount of 12 percent of the domestic value of the imported article; and (3) shall be payable to the patentee upon the final determination that such articles be excluded.

The bond will remain in effect as long as the temporary exclusion order remains in effect. As mentioned above, a temporary exclusion order would terminate upon a final determination by the Tariff Commission or upon a Commission determination that the conditions leading to the order no longer exist. Such conditions include, for example, the abandonment or unreasonable delay of the proceedings by the complainant. The term "domestic value" is to be interpreted according to the definition provided in section 12.39 of the Customs Regulations.

The Administration believes that the proposed amendment provides a workable solution upholding the original intent of the statute while, at the same time, protecting the patentee's rights. A bond of 12 percent, payable to the patentee, would be sufficient to protect the patentee's interests in almost all cases. In this regard, the Administration expects that to prevent unjust double recovery, the courts, in awarding damages, will take into account any remuneration received by the patentee through the bonding procedure should litigation arise with respect to the same importation as that which was subject to a section 337 proceeding.

The second amendment proposed to section 341 is to exempt the United States Government from any exclusion order that might be issued by the Tariff Commission. This exemption would make section 337 and section 337a of the Tariff Act, as they apply to patents, consistent with the provisions of 28 U.S.C. 1498 which provides an exclusive remedy in the United States Court of Claims for reasonable and entire compensation for infringement of a patent by the United States Government.

This amendment provides that temporary or permanent exclusion orders would not apply to articles imported by the United States, or imported for the United States with the authorization or consent of the Government if such articles are for use by the United States or for use for the United States with the authorization or consent of the Government. To protect the rights of the owners of both product and process patents when importation is by or for the Government, the statute further provides that when articles have been excluded permanently, the patentee shall be entitled to petition the Court of Claims for reasonable and entire compensation for use of the imported articles pursuant to the procedures of section 1498, title 28, United States Code.

It is expected that the Tariff Commission shall make the decision prescribed in subparagraph (2) of subsection (h) notwithstanding the fact that the only known importation is by or for the United States. If the Commission finds that

the conditions prescribed by subsection (a) have been met, it shall order the permanent exclusion of the articles in question. The statute is not intended, however, to preclude the presentation of legal defenses by the United States Government in the Court of Claims, if the Government has not participated in proceedings before the Tariff Commission with respect to the same articles.

TITLE IV—TRADE RELATIONS WITH COUNTRIES NOT ENJOYING NONDISCRIMINATORY TREATMENT

Title IV of the Trade Reform Act authorizes the President, subject to certain conditions and procedures, to extend nondiscriminatory (most-favored-nation) tariff treatment to imports from countries currently subject to the generally high Column 2 rates of duty.

The United States currently extends most-favored-nation treatment to all non-Communist countries and to Poland and Yugoslavia. Under section 231 of the Trade Expansion Act, however, all Communist countries except Poland and Yugoslavia are subject to the higher Column 2 rates of duty established under the Smoot-Hawley Tariff Act of 1930. The trade agreement between the United States and the Soviet Union, concluded in October, 1972 together with a settlement of lend-lease obligations, provides for the extension of most-favored-nation treatment to the Soviet Union. The agreement and the settlement will not take full effect, however, until the authority under Title IV of H.R. 10710 to extend nondiscriminatory tariff treatment is enacted.

The term "most-favored-nation" should not be misunderstood. It does not imply special or more favorable treatment. It is, in fact, normal or nondiscriminatory treatment extended to imports from all countries other than most Communist countries. Most-favored-nation rates are the Column 1 rates of duty. These rates have been successively reduced through a series of bilateral and multilateral negotiations from 1934 through 1967.

Levels of United States trade with the Soviet Union and East European countries have been severely constrained since the early 1950s as a result of legal barriers, government policy, and public opinion. Trade was viewed as a political weapon. In 1951, during the Korean War, the Congress withdrew the normal nondiscriminatory tariff treatment from Communist countries which they had been granted up until that time. Yugoslavia was excepted from this action, and normal tariff treatment was subsequently restored to Poland in 1960.

Recently, however, political and economic relations and attitudes have clearly undergone major changes. In the past several years, the Congress and the Administration have taken significant steps to encourage increased trade with Communist countries. These steps are consistent with changes in attitude and with efforts to normalize overall East-West relations.

Congressional encouragement of increased trade with Communist countries is reflected in several recent legislative enactments. In 1971, Congress repealed an amendment to the Export-Import Bank Act which had restricted the President's authority to extend Export-Import Bank credits for purchases by Communist countries. In 1972, in amending the Export Administration Act, Congress also authorized the President to remove unilateral controls on United States exports to Communist countries with the exception of necessary limitations on strategic goods. The Congress made it clear that United States policy should be to encourage trade with all countries "except those with which such trade has been determined by the President to be against the national interest."

The Administration also has taken steps to open avenues of trade with Communist countries. The complete embargo on trade with the People's Republic of China has been lifted. The list of items subject to export controls has been progressively shortened. A number of government-sponsored trade centers, information offices, commercial offices and commissions have been established in the Soviet Union and in Eastern Europe to encourage trade opportunities and to improve the conditions and facilities for conducting trade. These efforts have been generally well received by the Congress.

A number of American firms have established permanent offices in the Soviet Union and other Communist countries. United States trade with Communist countries increased dramatically in the past two years with exports far exceeding imports. In fact, when the United States registered a $6 billion trade deficit in 1972, our trade surplus with the Soviet Union of over $500 million was our largest with any single country. In 1973 this bilateral trade surplus increased to almost $1 billion. Although the rapid increase in exports to Communist

countries in the past two years has been exceptional, there will be opportunities for a steady expansion of trade in the future.

The two basic purposes of the Trade Reform Act are (1) to stimulate United States economic growth by maintaining and enlarging foreign markets for American products; and (2) to strengthen economic relations with foreign countries through the development of fair and equitable market opportunities and open, nondiscriminatory world trade. To achieve these purposes, United States foreign trade policy must be global in scope. To maintain discriminatory tariff treatment restricts United States market opportunities in a major part of the world and is inconsistent with these purposes.

Authority to grant nondiscriminatory tariff treatment to Communist countries as provided under Title IV would serve United States political and economic objectives in two major ways. First, ability to remove tariff discrimination would promote the United States foreign policy objective of normalizing relations with Communist countries. Normalized relations conducted through cooperation are basic to achieving stable and lasting international peace. Improved economic relations, increased trade in particular, provide Communist countries a vested interest in peaceful political relations and more diversified avenues of communication and interaction.

Communist countries, the Soviet Union in particular, regard the denial of nondiscriminatory tariff treatment by the United States as the outstanding issue in their economic relations with the United States. The continuation of discrimination in the form of tariffs at penalty levels is a continuing irritant in our relations with these countries and is a anomaly symbolic of a more hostile era in our relations. The burden of higher tariffs falls particularly on Eastern European countries because of the nature of the goods they currently export to us.

Second, nondiscriminatory tariff treatment and the resulting improved trade relations with Communist countries would bring significant economic benefits to the United States. Our Western trading partners have been enjoying these benefits on an increasing scale. Our trading relations with Communist countries have lagged far behind those of our major trading partners, particularly in Western Europe, for a number of years. Even with the large increase in United States trade with Communist countries in anticipation of trade agreements or with the aid of credits in recent years, our share of total two-way East-West trade during 1972 was still only 1.4 percent or $1.2 billion as compared with 15.3 percent and $13.1 billion for the European Community.

The market opportunities for the United States in the East are considerable, particularly since the needs of the Communist countries often coincide with products in which the United States enjoys a competitive advantage, such as agricultural products and high-technology manufactures. Increased exports to Communist countries would also have a favorable employment impact in the United States, as is the case with exports generally. While imports from Communist countries would increase under the lower Column 1 rates of duty, the United States would continue to enjoy a highly favorable balance of East-West trade. It is especially important that the United States take advantage of these export opportunities in Eastern European markets at the present time as a means of offsetting the higher costs of increased imports of essential materials.

These benefits cannot be gained, however, without the availability of export credits and loan guarantees. Export-Import Bank financing is extended to exports to the Soviet Union, Poland, Romania and Yugoslavia on the same terms, rates, and conditions as to other nations. It enables United States products and services to compete with those of Western European countries which are heavily supported by government-backed financing.

Improved trade relations can also contribute to the solution of outstanding economic and commercial issues between the United States and Communist countries. For example, the granting of nondiscriminatory treatment can be a vehicle and negotiating lever to obtain settlement and repayment of outstanding financial claims, as in the case of the Soviet Union. The whole process and institutional framework of negotiating commercial agreements can establish precedents for cooperation rather than confrontation in other areas. In this regard, efforts of the United States–U.S.S.R. Joint Commercial Commission have been impressive in developing cooperative approaches in areas of common interest. An agreed design for United States-Soviet cooperation in an improved international information system for agricultural production and trade, for example, could make an important and perhaps essential contribution to world food security.

Basic Provisions of Title V.—Section 401 continues the requirement of present law that the President deny nondiscriminatory tariff treatment to imports from countries which are ineligible for such treatment when the Trade Reform Act is enacted. These countries are listed in headnote 3(e) of the TSUS.

Section 403 authorizes the President to proclaim the extension of nondiscriminatory tariff treatment to such countries, however, which either (1) enter into bilateral commercial agreements meeting the requirements specified under section 404; or (2) become parties to an appropriate multilateral trade agreement, such as the GATT, to which the United States is also a party. The exercise of the authority is subject to several limitations and requirements to ensure that the granting of nondiscriminatory treatment is not automatic but in return for appropriate benefits for the United States.

1. Nondiscriminatory treatment accorded under bilateral commercial agreements or under a multilateral agreement remains in effect only as long as the obligations to the country involved remain in effect under the agreement.

2. Nondiscriminatory treatment must be withdrawn during any period the country is in arrears in its obligations under an agreement with the United States to settle lend-lease debts.

3. The President may suspend or withdraw nondiscriminatory treatment and thereby restore the Column 2 rates of duty at any time.

4. Mandatory provisions specified under section 404 must be included in any bilateral commercial agreement.

5. Imports from countries granted nondiscriminatory treatment under Title IV are subject to special market disruption provisions under section 405.

6. The extension and continuation of nondiscriminatory treatment under either a bilateral commercial agreement or a multilateral agreement are subject to Congressional veto under the procedures of section 406.

Additionally, under title IV as passed by the House, nondiscriminatory treatment cannot be granted; credits, credit guarantees, or investment guarantees cannot be extended under a United States Government program; and commercial agreements cannot be concluded with a country currently ineligible for nondiscriminatory treatment during any period which the President determines that it denies its citizens freedom of emigration or imposes unreasonable financial barriers to such emigration as specified under section 402.

1. Bilateral commercial agreements (section 404)

Subject to several conditions, section 404 authorizes the President to put into effect bilateral commercial agreements extending nondiscriminatory treatment when they are in the national interest and when they promote the purposes of the Trade Reform Act. The specific mandatory and illustrative optional provisions specified under section 404 for inclusion in bilateral agreements are intended to ensure that the United States obtain benefits of real value in return for granting nondiscriminatory treatment, and that the rights and interests of American doing business with state-trading economies will be protected and facilitated. The obligations undertaken by both Communist countries and the United States must be reasonably balanced. They ned not be necessarily similar in nature.

The mandatory provisions apply both to the 1972 commercial agreement with the Soviet Union, which has not yet been implemented, and to agreements which may be negotiated with other Communist countries in the future. The provisions of bilateral commercial agreements and other provisions of Title IV do not in any way affect the United States system of export controls imposed on goods of strategic importance under other statutes or under international agreements such as COCOM. Bilateral commercial agreements must:

1. Be limited to a maximum period of three years. They may be renewed for additional periods of up to three years each only if a satisfactory balance of trade concessions has been maintained, and only if actual or prospective reductions of United States tariff and nontariff barriers under multilateral negotiations are satisfactorily reciprocated.

2. Be subject to suspension or termination at any time for national security reasons. The agreements shall not limit the right of either party to take action to protect national security interests.

3. Provide safeguard arrangements to prevent domestic market disruption.

4. Assure patent rights at least equivalent to those under the Paris Convention for the Protection of Industrial Property if the country is not a party to that convention.

5. Include arrangements for the settlement of commercial differences and disputes.

6. Provide for consultations to review the operation of the agreement.

Section 404 also lists illustrative provisions which bilateral commercial agreements may contain, such as (1) arrangements for the protection of industrial rights and processes, trademarks, and copyrights; (2) arrangements for trade promotion; and (3) other commercial arrangements to promote the basic purposes of the Trade Reform Act. Other commercial arrangements could include provisions relating to supply access as well as to market access.

Countries which accede to the GATT usually undertake obligations and grant concessions which are similar in several respects to those which would apply under a bilateral commercial agreement. GATT members which would be current potential candidates for nondiscriminatory tariff treatment under a multilateral agreement are Romania, Hungary, and Czechoslovakia. Under Title IV, the President could extend nondiscriminatory treatment to these countries on the basis of the terms of their accession to the GATT or by concluding separate bilateral commercial agreements, subject to Congressional approval under the veto procedure of section 406.

2. Market disruption (section 405)

The provisions of bilateral commercial agreements under section 404 generally relate to safeguards to protect and facilitate the conduct of business in state-trading countries. Section 405 provides the domestic authority to grant import relief to protect domestic producers from any disruptive effects of increased competition in the United States due to imports from non-market-economy countries. Section 405 provides an alternative test with more liberal criteria—this is, relief is easier to obtain—than the criteria of the import relief provisions under Title II.

Consequently, a petitioner or other initiator of an import relief investigation under section 201 may opt to meet the injury criteria provided in section 201 (b) (1) or may request the Tariff Commission to determine, pursuant to section 405, whether imports from a country receiving nondiscriminatory treatment under Title IV are causing or are likely to cause market disruption and material injury to the domestic industry producing a like or directly competitive article. When a petitioner opts for the section 405 test in cases where imports originate both in one or more countries already receiving nondiscriminatory tariff treatment at the time of the enactment of the bill (i.e., all non-Communist countries and Poland and Yugoslavia) and countries receiving nondiscriminatory treatment pursuant to Title IV, the Tariff Commission will apply the Title II test to the former and the Title IV test to the latter. In effect, the Tariff Commission will have to make two determinations simultaneously.

Market disruption under section 405 exists whenever imports of the like or directly competitive article are (1) substantial; (2) increasing rapidly both absolutely and as a share of total domestic consumption; and (3) offered for sale at prices substantially below prices of comparable domestic articles. "Material injury" is a lesser degree of injury than the standard "serious injury" test under section 201. The Tariff Commission must find both market disruption and material injury for the domestic industry to become eligible for import relief under section 405. The term "comparable domestic article" with respect to prices is a narrower classification than "like or directly competitive article" since price comparisons must be made on as similar a specific product as possible to be valid and meaningful.

The factors, time limits, and procedures under sections 202 and 203 apply with respect to affirmative Tariff Commission findings of market disruption and material injury under section 405, except that the President may impose import relief measures either on imports from the country or countries granted nondiscriminatory tariff treatment under Title IV with respect to which it makes an affirmative finding when section 405, or against imports from all countries. (See suggested amendment.) Thus, if the Tariff Commission determined that imports from a country or countries receiving nondiscriminatory treatment under Title IV met the injury criteria of section 405 while imports from other sources did not meet the injury criteria of section 201, the President would consider the application of relief measures only against imports from the country or countries receiving nondiscriminatory treatment under Title IV which are the subject of the findings. If both injury criteria are met, the President could consider applying the same remedy to all countries or apply dif-

ferent remedies, such as increased tariffs for goods from countries currently receiving nondiscriminatory treatment and greater import relief on goods from countries receiving nondiscriminatory treatment under Title IV (if each of such countries is the subject of an affirmative finding under section 405).

The purpose for relaxing the criteria for determining injury under section 405 is to provide domestic industry an adequate safeguard against imports from nonmarket countries, in which the government rather than market forces determine production levels, distribution, and the prices at which products are sold. The provisions of section 405 are in addition to the protection afforded under the Antidumping Act. The special safeguard provisions required under the bilateral commercial agreements may provide a further means for dealing with possible injurious import competition. The agreement with the Soviet Union, for example, provides that each government will take appropriate measures to ensure that its exports to the other country will not cause or threaten market disruption. Accession to the GATT could also involve reaffirmation of the special GATT obligations entered into by state-trading countries with respect to market disruption.

3. Congressional oversight (section 406)

Section 406 enables the Congress to review and exercise control over commercial relations with Communist countries through the Congressional veto procedure. Whenever the President proclaims the initial extension of nondiscriminatory tariff treatment through either a bilateral commercial agreement or a multilateral agreement under section 403, he must submit to both Houses of Congress a copy of the proclamation and the agreement, and a statement of his reasons for extending the treatment. The proclamation will enter into effect only if neither House of Congress adopts a disapproval resolution by a majority of those present and voting within 90 days following submission of the documents.

Following submission of the semi-annual report on emigration laws and policies on or before December 31 of each year as required under section 402(b), either House of Congress may disapprove the continuation of nondiscriminatory tariff treatment within 90 days. In this case, Column 2 rates of duty would be restored the following day on imports from the particular country.

4. Freedom of emigration (section 402)

Section 402 of H.R. 10710 precludes the granting of nondiscriminatory tariff treatment, the extension of United States Government credits or guarantees, or the conclusion of a bilateral commercial agreement with any Communist country except Poland and Yugoslavia if that country does not accord its citizens the right or opportunity to emigrate or imposes certain taxes in connection with emigration. Specifically, a country is ineligible to receive nondiscriminatory tariff treatment under a bilateral or multilateral agreement, or to receive credits or guarantees under a United States Government program, and the President cannot conclude a commercial agreement with such country during any period in which he determines that the country (1) denies its citizens the right or opportunity to emigrate; (2) imposes more than a nominal tax on emigration or on documents required for emigration; or (3) imposes more than a nominal tax, levy, fine, fee, or other charge on a citizen because he desires to emigrate to the country of his choice.

If the President determines that a country does not violate these tests, it will be eligible for nondiscriminatory tariff treatment, United States Government credits or credit guarantees, and a commercial agreement, but only after the President submits a report to the Congress of his findings. The report must contain information on the country's emigration laws and policies and how they are administered. The President must also submit semiannual reports to the Congress on current emigration policies during any subsequent period when nondiscriminatory tariff treatment, export financing, or a bilateral commercial agreement is in effect.

The actual effect of section 402 could be to effectively prevent the extension of nondiscriminatory tariff treatment or United States Government credits or guarantees to the Soviet Union, and thereby prevent both the October, 1972 commercial agreement and the full settlement of lend-lease obligations from taking effect. Section 402 could also effectively prevent successful commercial negotiations with certain other Communist countries affected by Title IV because of practices relating to emigration.

The emigration condition language of section 402 was added to the Trade

Reform Act during its consideration in the House. The Administration has great concern about this language, particularly in its present form. The Administration believes that the effective prevention of extension of both non-discriminatory tariff treatment and of United States Government credits to certain Communist countries would have a damaging effect on the progress made to establish normal relations with Communist countries and would seriously impede efforts to achieve more harmonious international relations.

The Administration hopes that by working with the Senate, a solution to this problem can be found.

Johnson Debt Default Act and Fur Skin Embargo.—The Administration proposes the inclusion of two additional provisions in the Trade Reform Act of importance in enhancing East-West trade relations. These provisions are not included in H.R. 10710 as passed by the House of Representatives although they were included in the original bill submitted by the Administration.

First, section 706(g) of H.R. 6767 included a provision authorizing repeal of the Johnson Act. The Johnson Act, enacted in 1934, prohibits certain financial transactions by private persons in the United States with foreign governments which are in default of the payment of their obligations to the United States. The prohibited transactions include the making of loans and the purchase or sale of bonds, securities, or other obligations of the foreign government. Congress has virtually repealed the applicability of the Johnson Act to most countries by exempting any nation which is a member of the International Monetary Fund or the International Bank for Reconstruction and Development. The practical effect is to limit the applicability of the Act to some of the Communist countries.

The intention of the Act was not to regulate East-West trade, but to protect United States citizens from the sale of securities issued by governments likely to default. In spite of opinions of the Attorney General that normal commercial credits are not affected, the existence of the Act discourages commercial transactions involving long-term or unusual financing methods.

The Johnson Act imposes a competitive disadvantage on American firms because it has the effect of discouraging sales of United States plant and equipment which might otherwise be exported. At a time when the United States has successfully concluded a lend-lease agreement with the Soviet Union and is negotiating or contemplating debt settlements with other Communist countries, the retention of the Johnson Act is a barrier to East-West trade.

Second, section 706(f) of H.R. 6767 would have repealed headnote 4 to Schedule 1, part 5, subpart B of the TSUS, but was also deleted during the consideration of the bill by the House Committee on Ways and Means. That headnote prohibits the entry into the United States of imports for consumption of ermine, fox, kolinsky, marten, mink, muskrat, and weasel furskins, raw or not dressed, which are the product of the Soviet Union or of the Peoples Republic of China. The fur embargo was first enacted in 1951 at the same time that nondiscriminatory tariff treatment was withdrawn from Communist countries. Presently, this extraordinary form of discrimination both inhibits trade in an arbitrary manner and acts as an irritant in our foreign relations. The Administration believes that repeal will provide economic as well as political benefits to the United States.

Repeal is favored by United States furskin manufacturers but is opposed by domestic mink producers. The Administration believes that repeal of the fur embargo will not disadvantage domestic producers. With the exception of mink and muskrat, the embargoed furs are not produced commercially in the United States. Repeal of the embargo would not likely disrupt the domestic mink market. Some imports of Soviet mink would be competitive in quality with some mink produced by the United States ranching industry. However, the trade effects would probably be felt more by other foreign suppliers, as the quality of their mink more closely resembles Soviet mink. Quality differences and high Soviet consumption of its own production of muskrat indicate that repeal of the embargo would not likely cause any disruption of the United States market.

In the unlikely event that imports should prove disruptive, United States furskin producers will have at their disposal the various mechanisms under the Trade Reform Act for dealing with injurious import competition. These methods include the market disruption provisions under section 405 and special safeguard provisions required under bilateral commercial agreements.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

Title V grants authority to the President to fulfill an international commitment to participate with other major developed countries in the extension of generalized tariff treatment for a period of ten years to imports from developing countries.

In April, 1967 President Johnson announced United States readiness to explore the possibility of granting temporary generalized tariff preferences to developing countries. After considerable internal and international consideration of their desirability and feasibility, President Nixon announced his decision in October, 1969 that the United States would participate in a system of generalized tariff preferences subject to Congressional approval. The major industrialized countries agreed at the second UNCTAD Conference in October, 1970 to seek authority necessary for the early establishment of a mutually acceptable system of non-reciprocal and nondiscriminatory generalized tariff preferences.

In June, 1971 the GATT contracting parties adopted a temporary waiver, under the terms of GATT Article XXV, of most-favored-nation obligations under GATT Article I to permit their implementation. Since then 17 major developed countries—including all major developed countries except the United States and Canada—have put generalized tariff preference schemes into effect.[1]

The main purpose of generalized tariff preferences is to increase the export earnings, promote the industrialization, and to accelerate the rates of economic growth of developing countries. It is generally recognized that developing countries must achieve a more rapid and sustained growth in their export earnings in order to finance the increasing amount of imports necessary for their economic development. Increased access to developed country markets through generalized tariff preferences can play an important role in promoting the economic growth of developing countries by encouraging the diversification of their exports.

Approximately 75 percent of the foreign exchange earnings of developing countries utilized to stimulate their economic growth derive from exports. These exchange earnings must be greatly increased in order to finance their rapidly expanding requirements for capital goods and other essential materials for development, which in large measure can only be met by larger imports from the major industrialized countries.

However, exports of developing countries as a group traditionally have not shared proportionally in the growth of world trade. This is largely due to the heavy emphasis of their exports of agricultural and primary industrial products which are traditionally subject in many cases to import restrictions in developed countries or to sharp price fluctuations. Manufacturing in developing countries is discouraged by the structure of tariffs in developed country markets which generally increase with the degree of processing. Imports of manufactures from developing countries constitute only about 11 percent of total United States imports of manufactures, and less than six percent of imports of manufactures for all developed countries combined.

Increased access to developed country markets through the granting of generalized tariff preferences on semi-manufactures and manufactures would promote the diversification of their exports, thereby stimulating economic growth. The developing countries which have expanded and diversified their exports have achieved considerable economic development; those with less export expansion have experienced more limited economic rates of economic growth.

The United States, as well as the developing countries, has a stake in the granting of generalized tariff preferences. About 30 percent of our total exports are to the developing countries. Our trade surplus with these countries constitutes a favorable element in our overall balance of trade. Export earnings of developing countries, particularly those in Latin America, tend to flow substantially back to the United States for the purchase of goods needed for economic development. Fostering economic development by mutually acceptable trade measures can also foster less reliance by developing countries on subsidies, import quotas, and other trade-distorting devices which inhibit trade generally, including United States export opportunities.

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[1] The 17 countries are: Australia, Austria, the European Economic Community member states, Finland, Japan, New Zealand, Norway, Sweden, and Switzerland. In addition, the following five Communist countries report they are granting generalized tariff preferences: Bulgaria, Czechoslovakia, Hungary, Poland, and the U.S.S.R.

Fulfillment of the long-standing international commitment to participate in the granting of generalized tariff preferences would also remove a source of political friction with developing countries. It would help to improve two-way political, as well as economic relations on the basis of a partnership in trade rather than on the donor-recipient basis under foreign aid. An improved climate in relations with developing countries is particularly important for continued assurance of adequate supplies of energy and other essential raw materials for which developing countries are a major source, and for their cooperation in achieving mutual objectives in the multilateral trade negotiations.

Generalized tariff preferences also provide an alternative to the steady proliferation of special preferential trading arrangements between the European Community and developing countries. These arrangements discriminate among developing countries. They often involve the granting of preferences by developing countries to imports from the European Community ("reverse" preferences), which also discriminate against exports of the United States and other third countries. In sum, the granting of generalized tariff preferences is an important element in achieving the overall objectives under the Trade Reform Act of stimulating economic growth and developing an open, non-discriminatory, and equitable trading system on a global basis.

Basic Provisions of Title V.—Section 501 of H.R. 10710 authorizes the President to provide duty-free treatment to imports of eligible articles from beneficiary developing countries. In taking such action, the President must have due regard for: (1) its effect on furthering the economic development of developing countries; (2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries through generalized tariff preferences ("burden-sharing"); and (3) the anticipated impact on domestic producers of like or directly competitive products. As stipulated under section 505, the authority to grant generalized tariff preferences is for a temporary ten-year period. Within five years after enactment, the President must submit a full and complete report to the Congress on the operation of the authority.

Title V contains specific guidelines and limitations on the designation of beneficiary developing countries. It also contains various conditions, procedures, and safeguards with respect to the eligibility of articles for preferential treatment. Finally, there are specific limitations on the granting of duty-free preferential treatment. The purpose of these requirements and limitations is to provide maximum economic benefits to the developing countries under appropriate and adequate conditions and to safeguard domestic United States industries against injury from increased import competition.

1. Beneficiary developing countries (section 502)

Title V does not include a definition of developing countries which would be designated beneficiaries of generalized tariff preferences. There are several definitions of developing countries used by various Government agencies and by international organizations depending on the purpose involved. No single statistical measurement, such as per capita GNP, provides an adequate and satisfactory criterion to determine different levels of development.

Section 502 does contain specific guidelines and certain mandatory conditions which must be met for a developing country to be designated by the President as a beneficiary:

1. A specific list of countries is included in the statute which are generally considered to be developed and, therefore, cannot be designated as beneficiaries. This list is similar to that in the interest equalization tax legislation. Its inclusion in the statute does not imply that all other countries will be eligible for generalized tariff preferences.

2. A country must receive nondiscriminatory tariff treatment in order to be eligible, since it would be inappropriate to grant tariff preferences on imports from a country which are not even subject to the normal Column 1 rates of duty. The countries currently ineligible, which are listed in headnote 3(e) of the TSUS, are all of the Communist countries except Yugoslavia, which has requested beneficary status, and Poland, which has not. Czechoslovakia, East Germany, Hungary, Poland and the U.S.S.R. are on the ineligible list as developed countries in section 502 and could not be designated in any event.

If nondiscriminatory tariff treatment is extended to a country under the provisions and procedures of Title IV of the Trade Reform Act, its subsequent eligibility for generalized tariff preferences is subject to the same provisions under section 502 which apply in designating other countries. If nondiscriminatory tariff treatment is subsequently withdrawn from any country initially desig-

nated as a beneficiary of generalized tariff preferences, the beneficiary status must also be withdrawn or suspended. The Column 2 rates of duty applicable in the absence of preferences would be restored as required under section 504.

3. A developing country which grants preferential treatment to imports from a developed country other than the United States ("reverse" preferences) is ineligible unless it provides satisfactory assurances to the President that it will eliminate these "reverse" preferences before January 1, 1976. Generalized tariff preferences could be granted initially to a developing country providing such assurances, but they would be withdrawn or suspended under section 504 if "reverse" preferences have not or will not be eliminated before January 1, 1976. As noted on page 84 of the Committee on Ways and Means report on H.R. 10710, the mere extension to the United States of "reverse" preferences granted to another developed country is not sufficient to meet the requirement.

This "reverse" preference condition is consistent with and is intended to promote the overall purposes of the Trade Reform Act. It provides an incentive through the alternative of generalized tariff preferences to phase out the proliferation of special trading arrangements between the European Community and developing countries in Africa and those bordering on the Mediterranean. A world-wide system of generalized tariff preferences removes the economic justification for special preferential arrangements which discriminate against and disadvantage United States exports and those of other third countries.

4. Certain factors must be taken into account by the President in designating beneficiaries, namely: (a) an expressed desire by the country to be designated a beneficiary, in accordance with the "self-election" principle which donor developed countries have agreed generally to apply; (b) the level of the country's economic development, including its per capita GNP, standard of living, and other relevant economic factors to ensure a legitimate claim to developing country status; (c) whether or not other major developed countries are extending generalized tariff preferences to the country, in conformity with the agreement among the major donors to maintain "burden-sharing" through roughly comparable generalized tariff preference schemes; and (d) whether or not the country has nationalized or expropriated United States property without prompt, adequate, and effective compensation.

As indicated on page 85 of the Committee on Ways and Means report, no one of these factors is individually controlling on the President's authority to designate beneficiary countries. While the factors are discretionary, they do constitute guidelines and reflect certain expectations about countries to be designated beneficiaries. The factor relating to expropriation is also discretionary since automatic ineligibility for preferences could exacerbate the situation in some cases and provoke other adverse reactions rather than lead to a just settlement.

A "country" includes any foreign country, its overseas dependent territories or possessions, any United States insular possession (i.e., the Virgin Islands, Guam, and American Samoa), or the Trust Territory of the Pacific Islands, which meets the requirements and criteria under section 502. As pointed out on page 85 of the Committee on Ways and Means report, the designation of United States insular possessions is not intended to impair any benefits which they currently receive under headnote 3(a) of the TSUS, nor result in less advantageous treatment of their products than those of foreign countries. Under headnote 3(a), imports from insular possessions generally receive preferential duty-free treatment when they enter into the customs territory of the United States if they do not contain materials of foreign value exceeding 50 percent of the total value of the article. Products from insular possessions should continue to receive treatment under headnote 3(a) to the extent they would be entitled to more favorable treatment than under generalized tariff preferences.

Section 502 authorizes the President to provide, by Executive Order, for all member countries of a trade arrangement, such as a free trade area, customs union, or an association leading to the formation of an area or union, to be treated as a single unit for the purpose of beneficiary status under Title V. In order to be treated as one country, however, each member of the association must be eligible for designation individually as a beneficiary developing country. Exports of the member countries would be considered as exports of the association as a whole for the purposes of the rules of origin requirements under section 503 and the "competitive need" limitations under section 504. The movement of goods among the members of the association prior to exportation to the United States would be disregarded. The purpose of this provision is to enhance

the benefits of generalized tariff preferences to developing countries by increasing the possibility of their being able to meet the rules of origin requirements as a unit rather than as individual countries.

Section 502 also contains procedural requirements to keep the Congress continually informed of which countries are beneficiaries of generalized tariff preferences. The President must give both Houses of Congress advance notification of his intention to designate any country as a beneficiary and the considerations upon which the decision is based. He must also provide both Houses of Congress at least 30 days advance notice of his intention to terminate the designation of any country as a beneficiary and the reasons for that decision.

2. Eligible articles (section 503)

Section 503 contains the procedures and criteria for the designation of products by the President to be eligible to receive generalized tariff preferences. It also contains rules of origin requirements which must be met for imports of an eligible article actually to receive preferential treatment. Generalized tariff preferences will apply principally to imports of semi-manufactures and manufactures. A selected number of agricultural and primary products may also be included. An "article" will generally refer to the five-digit tariff line items of the TSUS. There may be exceptions to this rule, however, if necessary to provide a coherent product category.

Certain procedures and criteria must be followed in designating particular articles as eligible. The purpose of these requirements is to prevent adverse effects on domestic industries and workers as a result of duty-free preferential treatment on particular products.

Prior to designating any article as eligible, the President must comply with the procedures of section 131–134 as if the granting of duty-free preferential treatment were a duty modification to carry out a trade agreement under section 101. Under these procedures, the President shall publish and furnish the Tariff Commission with a list of proposed eligible articles. The Tariff Commission must provide advice to the President within six months as to the probable economic effects on domestic industries producing like or directly competitive articles and on consumers of granting duty-free preferential treatment on each article proposed for eligibility.

As required under section 503, the President will issue an Executive Order designating beneficiary developing countries before he submits a list of proposed articles to the Tariff Commission for its advice. While the designation of beneficiary countries may change periodically, the Executive Order will provide the Tariff Commission a better basis on which to judge the probable domestic economic impact of preferential imports.

The President must also seek information and advice under section 132 from Executive branch Departments and other appropriate sources on the list of eligible articles and provide for public hearings under section 133. The President must receive the advice of the Tariff Commission (unless the six-month period has expired) and a summary of the public hearings prior to his granting duty-free preferential treatment on any article, as required under section 134.

There are a number of factors that might be considered in determining whether an article should be eligible or ineligible for preferential treatment. One of these factors would be the desirability of reducing import barriers to supplies of essential materials from developing countries. The advice and other procedural requirements available under sections 131–134 are of sufficient scope to determine cases when such action is appropriate.

No article can be designated eligible for duty-free preferential treatment during any period when it is subject to import relief measures under section 203 of this Act or section 351 of the Trade Expansion Act. If the article becomes subject to such import relief action under section 203 subsequent to its designation, its eligibility for preferential treatment will automatically terminate. As provided under section 203, the President may terminate duty-free preferential treatment without applying other import relief measures if the Tariff Commission has determined in the course of its investigation under section 201 that the serious injury to the domestic industry is the result of generalized tariff preferences.

As required under section 504, no rate of duty other than that which would otherwise apply to the article can be established upon termination of preferential treatment. For example, if imports of the article would be subject to a Column 1 rate of duty of 10 percent in the absence of preferences, when import relief is granted under section 203 (in a form other than an increase in Column 1

rates or the termination of preferential treatment) then the duty must revert to 10 percent. It does not become a higher rate or an intermediate rate between zero and 10 percent. However, if the import relief measure under section 203 were an increase in the Column I rate from 10% to 30%, imports of the article from beneficiary developing countries as well as from non-preferential sources would be subject to the 30 percent duty.

Any other forms of import relief under section 203 also apply to imports of the article from beneficiary developing countries. If the Tariff Commission determines that imports from a country granted nondiscriminatory tariff treatment under Title IV are the cause of injury, generalized preferential treatment would cease on all imports of an eligible article. An increase in the Column 1 rate could apply under section 405, however, on a non-MFN basis only to imports from a beneficiary developing country or countries which had been granted nondiscriminatory treatment under Title IV.

In addition to the domestic safeguards under the standard import relief provisions, duty-free imports under generalized tariff preferences will also be subject to the countervailing duty law as amended under section 331. Preferential imports from a country of goods on which a bounty or grant is paid or bestowed and which the Tariff Commission determines cause injury to the domestic industry would be subject to countervailing duties.

As contemplated on page 87 of the Committee on Ways and Means report, the President will take into account the economic interests of United States insular possessions in designating eligible articles. This would include consideration of whether the granting of generalized tariff preferences on a particular article would adversely affect the trade and thereby the economic development of insular possessions. The Administration also interprets the advice of the Tariff Commission under section 131 on the probable impact of granting preferential treatment on "United States manufacturing, agriculture, mining, fishing, labor, and consumers" to encompass the impact on the economic activity of United States insular possessions.

Once an article is designated eligible for generalized tariff preferences, imports of the article must meet specific rules of origin requirements under section 503 in order actually to receive preferential treatment.

1. The articles must be imported directly from a beneficiary developing country into the customers territory of the United States.

2. The value added in the beneficiary developing country, including the cost or value of materials produced in that country plus the direct costs of processing operations performed in that country, must equal or exceed a minimum percentage not less than 35 percent or more than 50 percent of the appraised value of the article when it enters the United States customs territory. The Secretary of the Treasury will prescribe the minimum percentage by regulations. It must be applied uniformly to all eligible articles from all beneficiary developing countries. The regulations will also govern direct importation and determine what constitutes "direct costs" of processing operations, including the treatment of executive compensation.

The rules are designed to ensure that the benefits of generalized tariff preferences actually accrue to beneficiary developing countries. The minimum percentage may be adjusted periodically within the range of 35–50 percent in the light of actual experience. The effect of various percentage levels of value-added on trade patterns cannot be determined in advance. Adjustment within the range can permit maximum benefits for beneficiary countries and, at the same time, prevent to the maximum extent possible the stimulation of "pass-through" operations which would primarily benefit enterprises in developed countries.

For example, as indicated on page 87 of the Committee on Ways and Means report, the Secretary of the Treasury would pay particular attention to the pattern of imports under generalized tariff preferences which are otherwise subject to relatively high rates of duty and which contain a high proportion of manufactured components produced in developed countries. The minimum percentage of value-added in beneficiary developing countries would be adjusted upward if such imports were increasing rapidly and substantially. The adjustment would be a means to prevent circumvention of duties by developed countries and to confine the benefits of the system to the countries intended.

3. Limitations on preferential treatment (section 504)

Section 504 authorizes the President to withdraw, suspend, or limit duty-free preferential treatment at any time on any article or with respect to any beneficiary developing country. In taking such action the President must consider the factors

under section 501 which led to the granting of generalized tariff preferences and the criteria under section 502 taken into account in designating beneficiary countries. As in the case of import relief action, the withdrawal or suspension of preferential treatment for other reasons restores the rate of duty applicable to the article in the absence of generalized tariff preferences. An intermediate rate of duty cannot be established.

The GATT waiver to most-favored-nation obligations, which permits the extension of generalized tariff preferences, notes the view of the developed countries that the granting of generalized tariff preferences "does not constitute a binding commitment and that they are temporary in nature." Consequently, the withdrawal, suspension, or limitation of preferences under section 504 will not give rise to international obligations under the GATT or to use of the authority under section 124 for payment of compensation. The reduction of Column 1 rates of duty under bilateral or multilateral trade agreements would also not give beneficiary developing countries a right to compensation for the reduction in their margins of preferential treatment.

The President must withdraw or suspend the designation of a developing country as a beneficiary if it is no longer eligible for nondiscriminatory (Column 1) tariff treatment or if it grants "reverse" preferences to a developed country and has or will not eliminate such preferences before January 1, 1976.

In addition, preferential treatment cannot be granted initially or must be withdrawn or suspended subsequently on a particular article from a particular beneficiary country which supplies, directly or indirectly, more than $25 million of the article or at least 50 percent of the total value of United States imports of the article during the latest calendar year. The country will cease to be eligible for duty-free treatment on the article within 60 days after the end of the calendar year, unless the President publishes a determination within that period that the national interest warrants the grant or continuation of preferential treatment. National interest considerations could include, for example, a need to remove trade barriers to imports of an article in short supply. Preferential treatment could be restored at a subsequent time, subject to the procedures under section 503.

The authority under section 504(a) would permit the President to withdraw or suspend preferential treatment with respect to any article or from any beneficiary country. Withdrawal or suspension might be warranted, for example, if a country has clearly demonstrated its competitiveness in the article and is preempting potential benefits from least developed countries.

This "competitive need" formula is designed to confer the benefits of generalized tariff preferences to developing countries which do not demonstrate their ability to gain access to and compete in the United States market at present rates of duty. On the other hand, countries which no longer need generalized preferences to promote their economic development will not continue to receive unnecessary benefits. The scheme is designed to confer greater benefits to the least developed countries which need them the most. They will not have to compete on an equal basis with the more competitive products of advanced developing countries. Furthermore, it permits a gradual return to most-favored-nation treatment as industries in beneficiary developing countries become more competitive.

The "competitive need" feature of the United States scheme has several distinct advantages over the tariff-quota system used in the generalized preference schemes of the European Community and Japan. Under the tariff-quota approach, *all* developing countries lose preferential access in a particular year once the quotas for the particular product are filled for that year. Preferential access under the "competitive need" formula will be removed only from an individual supplying country which has demonstrated its competitiveness in the particular product. The formula approach also does not pose the uncertainties under a tariff-quota of no single supplier knowing in advance whether it will receive preferential treatment because of other suppliers already filling the quota. Finally, it avoids the bureaucratic control apparatus and budgetary cost necessary to administer tariff quotas on a wide scale.

The "competitive need" approach reflects the recommendations of the President's Commission on International Trade and Investment (the Williams Commission). It proposed that generalized tariff preferences be limited to countries which need the benefits in order to become competitive.

The Commission also recommended that the responsibility for providing improved access for developing country exports be shared equitably overall and with respect to individual products among the major developed countries.

Given the complexities and non-uniformity of the various schemes in effect, it is impossible to determine the precise comparative impact on donor country imports in advance. There may be different results under the same system, or comparable results under varying schemes depending on such factors as differences in demand and supply, product coverage, relative price changes, and customs administration. There is also no single appropriate yardstick to measure "burden sharing." Consequently, an OECD review mechanism will monitor and assess the various systems and recommend modifications as necessary in the light of actual experience to achieve this purpose.

ATTACHMENT A

SUGGESTED AMENDMENTS TO H.R. 10710, THE TRADE REFORM ACT OF 1973

Most of the amendments contained in this paper are designed to improve H.R. 10710. A few of these proposals are substantive, but most are technical. The effect of each of the amendments is described along with the technical changes which would be required in the bill. The more important of the following amendments are: the amendment to the purposes of the bill, to include access to supply (sec. 2); the amendment to the countervailing duty law (sec. 221); the inclusion of other circumstances in which a balance-of-payments surcharge may be applied on a non-MFN basis (sec. 122); the repeal of the fur embargo affecting the USSR and the People's Republic of China, and the repeal of the Johnson Debt Default Act.

While the amendments presented herein are not necessarily all the suggestions the Administration may have, they are the result of extensive interagency consultations.

SEC. 2. STATEMENT OF PURPOSE

Purpose of Amendment.—To broaden the purposes of the Act to include supply access.

Text of Amendment.—Strike the word "and" on p. 5, line 7 and the period at the end of line 11; insert at the end of line 11 "; and" and add the following new subparagraph:

"(3) to promote fair and equitable access to the supplies needed for orderly economic growth and development."

Rationale.—Since the introduction of the Trade Reform Act of 1973, the scope of the economic problems which require multilateral negotiations as well as domestic authority has broadened. Problems of short supply and supply access have come to be recognized as being of increasing importance both to foreign countries and the United States. The purposes of the Act should be amended to reflect this change of circumstances explicitly, although the purposes currently provided in the bill are broad enough to include supply access objectives.

SEC. 102(a). NONTARIFF BARRIER AGREEMENTS (CONGRESSIONAL FINDING)

Purpose of Amendment.—To clarify that included in the nontariff barrier agreement authority is the authority to negotiate on access to supplies.

Text of Amendment.—The first sentence of sec. 102(a), p. 7, line 16, is amended to read as follows:

"(a) The congress finds that barriers to (and other distortions of) international trade are reducing the growth of foreign markets for the products of United States agriculture, industry, mining, and commerce, diminishing the intended mutual benefits of reciprocal trade concessions, *preventing fair and equitable access to supplies*, and preventing the development of open and nondiscriminatory trade among nations." (new language italicized).

Rationale.—By including in the findings of Congress a finding that nontariff barriers to (and other distortions of) international trade are preventing fair and equitable access to supplies, it becomes clear that Congress views denial or limitation of access to supplies as among the trade barriers and distortions on which the President is authorized to negotiate.

SEC. 102(b)(1). NTB AGREEMENT AUTHORITY

Purpose of Amendment.—To provide explicitly that section 102 includes authority to enter into agreements to refrain from the imposition of barriers to or other distortions of trade in cases where such barriers are not currently imposed.

Text of Amendment.—Section 102(b)(1), p. 8, lines 12-21, is amended to read as follows:

"(b)(1) Whenever the President determines that any barriers to (or other distortions of) international trade of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States, *or that the imposition of such barriers would so burden or restrict the foreign trade of the United States*, and that the purposes stated in section 2 will be promoted thereby, the President, during the 5-year period beginning on the date of enactment of this Act, may enter into trade agreements with foreign countries or instrumentalities providing for the reduction or elimination of such barriers or other distortions, *or the prohibition or limitation of the imposition of such barriers or other distortions*, (new language italicized).

Rationale.—In the tariff area, the absence of a binding preventing a country from increasing a rate of duty is clearly a barrier to trade even if the country does not currently impose any duty. The country would be free at any time to increase its rate of duty to a prohibitive level. This acts as a barrier to trade. Similarly in the nontariff area, the absence of any obligation by a country to refrain from imposing a nontariff barrier can act as a barrier to trade. Thus it is important that the nontariff barrier to trade. Thus it is important that the nontariff barrier authority in the trade bill clearly extend to agreements binding the parties to refrain from the use of nontariff barriers of particular types in cases where they do not currently impose such barriers.

SEC. 102(g). RELATIONSHIP OF NTB AND TARIFF AGREEMENT

Purpose of Amendment.—To clarify the application of Sec. 102 to the conversion of nontariff barriers into tariffs; to clarify the relationship of sec. 102 agreements (which convert NTB's into tariffs) to sec. 101 agreements which provide for duty reductions on the same product; and to make explicit the non-application of staging requirements to reduction of a tariff resulting from conversion of an NTB.

Text of Amendment.—Delete section 102(b)(2), p. 8, lines 22-25, and amend section 102(g), p. 12, lines 11-24, p. 13, lines 1-10, to read as follows:

"(g)(1) Except as provided in this subsection, no trade agreement entered into under this section may provide for any modification in a rate of duty imposed by the United States.

(2)(A) In any trade agreement entered into under this section, it may be provided that any trade barrier (or other distortion) of the United States with respect to any article may be converted into a rate of duty affording substantially equivalent tariff protection, if there is submitted to the Congress, at the time of or before the submission of the agreement entered into under this section, the determination by the Tariff Commission of the rates of duty which afford substantially equivalent protection to the barrier (or other distortion) of the United States which is being converted;

(B) Any such agreement may further provide for the reduction of part or all of that portion of the rate of duty resulting from the conversion of the trade barrier (or other distortion) of the United States which is attributable to such conversion if, in addition to meeting the requirements of subparagraph (A), a clear statement of the reduction (if any) proposed to be made (or which has been made) under section 101 with respect to the Column 1 rate of duty for such article is submitted to the Congress at the time of or before the submission of the agreement entered into under this section.

(3) Any such agreement may also provide, without reference to the requirements of section 103, for the staging of the reduction of part or all of that portion of the rate of duty resulting from the conversion of the trade barrier (or other distortion) of the United States which is attributable to such conversion; and

(4) Unless the agreement entered into under this section, upon being submitted to the Congress, was accompanied by a clear statement of the reductions proposed to be made under section 101 with respect to the Column 1 rate of duty for such article, or such statement had been submitted before the time of the submission of the agreement under this section, no agreement may be entered into thereafter under section 101 reducing to any extent the rate of duty with respect to such article."

Rationale.—These amendments are technical and are designed to implement the intent of the House bill. What is currently section 102(b)(2) is brought

together with current subsection (g) in order that all of the provisions governing the use of section 102 for conversion of NTB's into tariffs are located in one place. A Tariff Commission determination is required for all conversions and not just for those where a section 101 agreement is being contemplated with respect to the article in question.

Under the House bill, an agreement implemented under section 102 can provide for the staging of converted nontariff barriers. However, this is not explicitly stated.

A further clarification is that there may be a conversion of a given NTB into a tariff even though there has already been a reduction in the Column 1 rate of duty with respect to the article involved. The purpose of paragraphs (g)(3) and (4) is to assure that the Congress has before it full information both with respect to the proposed NTB agreement and the use of the tariff authority with respect to a given article when it must decide whether or not to disapprove the NTB agreement under Section 102.

SEC. 102(l). SELECTIVE APPLICATION OF NTB AGREEMENTS

Purpose of Amendment.—To clarify that, if desired, benefits under Sec. 102 agreements may be applied solely to signatories.

Text of Amendment.—Section 102 is amended by adding at the end thereof, p. 13, line 13, the following new subsection:

"(l) If it is consistent with the agreement negotiated under the authority of this section, and the proclamation and orders submitted pursuant to subsection (f) of this section so provide, the benefits and obligations of any agreement entered into under this section may be applied solely to parties to such agreement."

Rationale.—Many nontariff barrier agreements are not by their nature capable of being applied to all countries. For example, an agreement which provided that health inspections of animals would not be required at the border given an adequate foreign inspection pursuant to internationally agreed rules, might apply only to countries able to meet the agreed international standard; an agreement on subsidies might provide for stricter rules for developed countries than less developed countries. In such cases the sanctions for violating the agreement would be applied solely to signatory countries.

Since the nondiscrimination requirement contained in section 127 of the bill now applies only to duties and other import restrictions or duty-free treatment proclaimed in carrying out any trade agreement under Title I, the amendment clarifies, without materially altering, the bill. The type of situation in which it would be desirable to apply the benefits or obligations of an agreement on a selective basis would generally not be those in which a duty, duty-free treatment, or another import restriction is being applied pursuant to the NTB agreement. Rather, import restrictions applied on a selective basis will generally be those applied pursuant to other U.S. laws, although the NTB agreement could establish limitations on the manner of their application.

In order to induce other countries to sign NTB agreements, it will often be necessary in this new round of negotiations to apply the benefits of an NTB agreement only to signatories. Currently, for example, the principal subsidies obligation of the GATT is adhered to by only 17 countries, but the obligation not to subsidize under that provision is extended by signatories to all GATT members. There is little incentive for other countries to become signatories if they can receive all the benefits without incurring any of the obligations, merely by failing to adhere to the obligation themselves.

SEC. 103. STAGING

Purpose of Amendment.—To provide that tariff reductions are not tolled during a period when a particular stage is not in effect due to a temporary reduction in the rate; and to eliminate the necessity for staging tariff reductions where the tariff rate is suspended by act of Congress.

Text of Amendment.—(1) Amend subsection 103(c)(2), p. 14, line 20ff., to read as follows:

"(c)(2) If any part of a reduction takes effect, then any time thereafter, during which such part of the reduction is not in effect by reason of legislation of the United States or action thereunder which temporarily increases the rate of duty, shall be excluded in determining—

(A) that 1-year intervals referred to in subsection (a)(2), and

(B) the expiration of the 15-year period referred to in paragraph (1) of this subsection,"

(2) Add a new subsection, after line 2, p. 15, as follows:

"(d) Subsection (a) shall not apply in the case of any article with respect to which the duty has been suspended by act of Congress, as of the date of enactment of this Act or on any day thereafter during which this section would have required the staging of tariff reductions."

Rationale.—The above are minor but useful amendments to the staging requirement.

Under TRA section 103, staging is tolled during any period in which a tariff reduction is not in effect. In prior law this was used to prevent an accumulation of stages during a period when an escape clause action was in effect so that upon the termination of that action there was not a sharp decrease in the tariff. This is still a useful provision. However, this Act includes tariff suspension authorities, e.g., the short supply authority. It would not be useful to require the interruption of staging of the tariff reductions on an item during the period in which the duty has been suspended under section 123 because of a shortage of the import. For these items, the staging should be deemed to have continued uninterrupted without reference to the fact that there might have been a suspension.

There are also cases in which there ought not to be a staging requirement at all. Where Congress has enacted a duty suspension, the Congress has made a judgment that no tariff is warranted on a given article at the time. It would be illogical to require that, if the duty is to be eliminated pursuant to a trade agreement, the tariff be first increased and then reduced in steps when its immediate elimination is desirable.

SEC. 121(a). GATT REVISION (SUPPLY ACCESS)

Purpose of Amendment.—To include new rules on supply access among the goals for reform of the international trading system; to provide a negotiating mandate from the Congress with respect to reform of the international trading system which allows greater flexibility with respect to the means of achieving the stated goals.

Text of Amendment.—Section 121(a), p. 15, line 7, ff., as amended to read as follows:

"(a) The President shall, to the extent possible and consistent with United States interests, as soon as practicable, seek international agreement on principles promoting the development of an open, nondiscriminatory, and fair world economic system, including (but not limited to):

(1) the establishment of an international decision-making machinery which more nearly reflects the world balance of economic interests;

(2) the adoption of an international safeguard mechanism which takes into account all forms of import restraints countries use in response to injurious competition or threat of such competition;

(3) the extension of international trade rules to conditions of trade not presently covered in order to move toward a fairer world trading system;

(4) the adoption of fair labor standards and of public petition and confrontation procedures;

(5) adjustment in the treatment by international rules of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct rather than indirect taxes for revenue needs;

(6) international recognition of import surcharges as the preferred means by which industrial countries may handle balance-of-payments deficits insofar as import restraint measures are required; and

(7) the improvement and strengthening of GATT and other international rules and procedures with reference to problems of supply access and the promotion of principles of fair access to supplies and effective consultative procedures on problems of supply shortages."

Rationale.—The proposed amendment has been suggested in order to conform the Congressional directive to the President to the practical problems involved in the revision of the rules governing international trade and, in particular, the GATT. The House version of Sec. 121(a) is directed toward formal revision of the GATT. However, it may be in many cases much more practical and productive if the President seeks to negotiate protocols or supplementary

agreements designed to reform the existing rules of international trade either as part of, or separate from, the GATT. Thus the amendment listed above does not address itself specifically to individual articles of the GATT. In addition, the amendment recognizes the difficulty posed by a very detailed negotiating directive. Thus, the President is directed to seek only the types of international rules listed in section 121(a) if they can be obtained in a form that is consistent with the best interests of the United States.

A series of negotiating requirements which are too inflexible can serve as a pretext for foreign countries to refrain from entering into agreements with the United States which may not fulfill the Congressional directive in every particular. For example, a separate protocol might accomplish the objective of achieving an international safeguard system without amendment of Article XIX of the GATT. Our trading partners could resist concluding such a protocol on the grounds that it was outside the mandate of the U.S. negotiators.

While several of the above objectives contained in the House bill may be very difficult to accomplish, none of them have been deleted in the above amendment. Added to the list of House amendments is a directive with respect to negotiating on questions of access to supplies and consulting on supply problems.

SEC. 122. BALANCE-OF-PAYMENTS AUTHORITY

Purpose of Amendment.—To provide that surplus actions be of broad product coverage; and to provide that a balance-of-payments surcharge can be applied on a non-MFN basis in order to exempt certain countries.

Text of Amendment.—(1) Amend section 122(b) by inserting a period instead of a semi-colon at the end of line 9 on p. 18, and by adding a new sentence in lieu of lines 10 through 15 on p. 18, to read as follows:

"Import liberalizing actions proclaimed pursuant to this subsection shall be of broad and uniform application with respect to product coverage except that the President shall not proclaim measures under this subsection with respect to those articles where in his judgment such action would cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, or to impairment of the national security, or would otherwise be contrary to the national interest."

(2) Subsection (c)(2), p. 18, line 24ff., is amended to read as follows:

"(2) Notwithstanding paragraph (1)—

(A) if the President determines that the purposes of this section would best be served by action against one or more countries having large or persistent balance-of-payments surpluses, he may exempt all other countries from such surcharge; and

(B) if the President determines that the purposes of this section would be served and that serious injury to the economies of one or more other countries could be avoided by such action, he may exempt such countries from such surcharge."

Rationale.—The first of the two amendments is designed to assure that import liberalizing measures taken when the United States is in a surplus position are designed for a general impact on the trade account rather than to change import barriers on individual items selectively. This requirement is symmetrical with the requirement on import restricting actions contained in section 102(d).

The second of the two amendments is designed to allow the President to exempt countries upon which import restricting actions might have a very severe impact pending the entry into force of new rules regarding the application of surcharges.

It is important that the Administration not be effectively proscribed from using the balance-of-payments authority itself because the impact on a country or group of countries would be unacceptably harsh. Thus, authority should be added to exempt a country or group of countries whose trade with the United States may represent a sizeable proportion of their international trade. It has also been widely recognized that it may be desirable to exempt developing countries from such measures.

SEC. 123 SHORT SUPPLY AUTHORITY

Purpose of Amendment.—To provide special authorities to enable the President to remove import barriers to imports of articles in short supply.

Text of Amendment.—(1) Section 123, p. 21, lines 9–21, is amended by substituting therefor the following:

"SEC. 123. AUTHORITY TO SUSPEND IMPORT BARRIERS TO ALLEVIATE SHORT SUPPLY CONDITIONS

(a) Whenever the President determines that (1) a condition of short supply exists or such condition may be imminent and (2) such condition may be avoided, eliminated or alleviated by the reduction or suspension of any duty or other import restriction he may, with respect to any article, imports of which are dutiable or subject to any other import restriction,

(1) proclaim a temporary reduction in, or suspension of, the duty (including any duty imposed under the Antidumping Act, 1921 (19 U.S.C. 160, et. seq.), or section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), applicable to such article); and

(2) proclaim a temporary increase in the value or quantity of such article which may be imported under any import restriction."

(2) Subsection 123(e), p. 22. line 20ff., is amended by striking therefrom the words "150 days" on line 22, and inserting in lieu thereof "one year".

Rationale.—Increasingly there will be situations in which an article which is imported is in short supply. Thus the focus of this section should be changed to the short supply situation rather than to counter general inflation. The short supply situation may occur where antidumping or countervailing duties would be applied. In such cases there should be authority both to reduce temporarily tariffs or quotas and to reduce temporarily or suspend those additional duties applicable to articles by virtue of these two statutes. In addition, more time is necessary to evaluate the effect of the suspension of duties or increase of imports under a quota before the Congress must act to preserve the duty suspension or quota liberalization. There would be much better information on which to evaluate the experience under the action if a year rather than 150 days were the maximum period that an action could be maintained prior to obtaining legislation.

SEC. 124. COMPENSATION AUTHORITY

Purpose of Amendment.—To clarify the application of the compensation authority where the article upon which a new concession is to be granted has been subject to a duty reduction under Sec. 101 which is in the process of being staged; and to provide authority to round tariff rates where this would simplify computations.

Text of Amendment.—Section 124(b) is amended by inserting "(1)" at the beginning of the subsection (p. 23, line 15), and inserting the following at the end of the subsection (at line 17):

"Where the existing rate of duty at any time is an intermediate stage under section 103, the proclamation made pursuant to section (a) may provide for the reduction of each stage proclaimed under section 101 by not more than 30 percent of such stage, and may provide for a final rate of duty which is no more than 30 percent below the rate of duty proclaimed as the final stage under section 101.

(2) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitation provided by subsection (b) of this section by not more than whichever of the following is lesser:

(A) the difference between the limitation and the next lower whole number, or

(B) one-half of 1 percent ad valorem."

Rationale.—Section 124 does not take into account the problem of the staging of concessions. After a major round of trade negotiations, most tariffs will be in the process of being reduced in stages. Compensation which is paid in the form of a reduction of an intermediate stage would not necessarily be reflected in subsequent stages unless the above amendment is made. The rounding authority is identical to that contained in section 103 and is designed to avoid encumbering the Tariff Schedules with fractional rates.

SEC. 125. AUTHORITY TO RENEGOTIATE DUTIES

Purpose of Amendment.—To change the title to more accurately reflect the substance of the section; to clarify the relationship of this authority to tariffs on items which are in the process of being reduced in stages; to combine the limitations on each of the two years of this authority to make one overall lim-

itation for the two years; to clarify the relationship of the staging and rounding authorities contained in section 103 to the use of this authority.

Text of Amendment.—(1) The title of section 125, p. 23, line 21, is amended to read as follows: "TWO-YEAR RESIDUAL AUTHORITY TO NEGOTIATE DUTIES."

(2) Subsection 125(b), p. 24, line 10ff., is amended to read as follows:

"Agreements entered into under this section shall not provide during the two year period specified in subsection (d) for the reduction of duties, or the continuance of duty-fee treatment for articles which account for more than a total of 4 percent of the value of United States imports for the most recent 12-month period for which import statistics are available."

(3) Subsection (c)(1), p. 24, line 16ff., is amended by adding at the end thereof the following new sentence:

"Where the existing rate of duty at any time is an intermediate stage under section 103, the proclamation made pursuant to section (a) may, insofar as consistent with the provisions of subparagraph (2), provide for the reduction of each stage proclaimed under section 101 by not more than 20 percent of such stage, and provide for a final rate of duty which is no more than 20 percent below the rate of duty proclaimed as the final stage under section 101."

(4) Subsection (c), p. 24, lines 16–24, is amended by adding at the end thereof the following new paragraph:

"(3) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitation provided by subsection (c)(1) of this section by not more than whichever of the following is lesser:

(A) the difference between the limitation and the next lower whole number, or

(B) one-half of 1 percent ad valorem."

Rationale.—The title of this section is changed to more accurately reflect the limits of the authority which were adopted by the House.

The section currently contains the limitation that it cannot affect more than 2 percent of the value of United States imports in a given year. Since the authority is only granted for a 2-year period, it would provide somewhat greater flexibility to use a total limit of 4 percent of the annual value of the United States imports rather than 2 percent per year.

The amendment which relates to the effect of this authority on staging cures the same problem that was present in section 124. This amendment makes it possible to reflect the concession granted under this section in full in the final concession rate after the authority of Sec. 101 and this section have been utilized, within, however, the overall limits of section 101. Another of the amendments grants rounding authority to simplify computation. There is no staging requirement in Sec. 124 or Sec. 125 because of the small amount of duty reductions that are allowed under these two sections.

SEC. 126. TERMINATION AND WITHDRAWAL AUTHORITY

Purpose of Amendment.—To clarify the relationship between the withdrawal and termination authority; to prevent springback in cases of withdrawal as well as in cases of termination unless the President acts pursuant to the authority contained in section 126 to restore prior rates of duty; to delete the 1-year limitation on anti-springback; and to allow a national interest waiver of the prior hearing requirement.

Text of Amendment.—(1) Subsection 126(c), p. 25, line 5ff., is amended by substituting for the words "in addition to exercising the authority contained in subsection (b)" the words "in addition to any exercise of the authority contained in subsection (b)".

(2) Subsection 126(d), p. 26, lines 12–25, is amended to read as follows:

"Duties or other import restrictions required or appropriate to carry out any trade agreement entered into pursuant to this Act, section 201 of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930, shall not be affected by any termination, in whole or in part, of such agreement, or any withdrawal or suspension of any obligation under such agreement, and shall remain in effect after the date of such termination, withdrawal or suspension, unless the President by proclamation provides that such rates shall be increased pursuant to subsections (b) or (c), section 255(b) of the Trade Expansion Act of 1962, or section 350(a)(6) of the Tariff Act of 1930. Within 60 days of any

such termination, withdrawal, or suspension, the President shall transmit to the Congress his recommendations as to the appropriate rates of duty for all articles which were affected by the termination, withdrawal, or suspension, or would have been so affected but for the preceding sentence."

(3) Subsection 126(e), p. 27, lines 1-5, is amended by adding at the end thereof the following:

"unless the President determines that such prior hearings would be contrary to the national interest because of the need for expeditious action, in which case he shall provide for a public hearing promptly after such action."

Rationale.—These clarifying amendments are designed primarily to remove ambiguities in the existing text. In subsection (c), the erroneous implication may be given that the President must exercise both the termination and the withdrawal or suspension authorities together. This was not the intention of the Administration or the House.

The second amendment is designed to extend current subsection (d) which prevents a termination from resulting in a "spring-back" to the pre-concession rate, to cases where withdrawal or suspension has taken place and spring-back should be prevented. Thus, unless the President acts to put back into effect the earlier rate, no termination, withdrawal or suspension will result in spring-back.

For example, this would allow the President to withdraw a concession under an international agreement pursuant to our rights under the international agreement, in response to a foreign action. But he would not have to increase the U.S. rate of duty at once. He might not wish to if the foreign country had withdrawn a concession but had not itself increased the applicable rate of duty on United States products. This has happened in the past and there should be sufficient flexibility to apply concession rates on a *de facto* basis pending foreign action which restricts U.S. exports and thereupon requires a response.

The last of the above amendments allows the President to act quickly without the necessity of a prior public hearing. He can thus respond expeditiously when it is in the best interests of the United States that immediate retaliation or response be given to a foreign action. In these cases he will still be required to provide a public hearing but it would not have to be held prior to his action.

SECTION 128. RESERVATION OF ARTICLE FOR NATIONAL SECURITY OR OTHER REASONS

Purpose of Amendment.—To clarify the impact of the reservation upon broad nontariff barrier negotiations.

Text of Amendment.—Subsection 128(b), p. 27, line 19ff., is amended by striking from the end of the first sentence thereof the words "or other import restriction." and inserting in lieu thereof the following: "on such article, or any import restriction imposed under section 203 of this Act or under sections 232 or 351 of the Trade Expansion Act of 1962."

Rationale.—The purpose of this amendment is to clarify the relationship of the reservation contained in this section to broad nontariff barrier agreements. The fact that an article is subject to an escape clause action under the Trade Expansion Act, an action under the national security provisions of that Act, or import relief under the Trade Reform Act, should not require that that article be removed from negotiation of broad nontariff barrier agreements. For example, if, as is currently the case, oil is the subject of a national security action, and glass were the subject of an escape clause action, an agreement on standards could be negotiated which included these two items. The same would be true with respect to an agreement concerning customs documentation. These two types of broad nontariff barrier agreements are not inconsistent with a national security action or an escape clause action, and therefore the items subject to the narrower actions should not be mandatorily expected from broader agreements. However, the duty or other import restrictions imposed for national security reasons or import relief could not be reduced pursuant to the international agreement.

SEC. 131. TARIFF COMMISSION ADVICE

Purpose of Amendment.—To reduce from six months to 60 days the time within which the Tariff Commission must give advice to the President with respect to items subject to compensation or renegotiation agreements.

Text of Amendment.—Section 131(b), p. 29, line 1, is amended by revising the first two lines thereof to read as follows:

"(b) Within 6 months after receipt of such a list under Chapter 1, and within 60 days after receipt of a list under Sec. 124 or 125, the Tariff Commission shall advise the President with respect . . .".

Rationale.—Six months is required for the Tariff Commission to respond with respect to the lengthy list of articles provided to it with respect to the typical Sec. 101 agreement. However, Sec. 124 and 125 contemplate agreements having a very limited coverage. There is no need for a 6-month period before advice can be rendered. Sixty days would be far more appropriate. (In addition, a 60 day period is appropriate for advice with respect to articles which may be redesignated under section 504(c) as eligible for preferential treatment. An amendment to section 504 is being proposed for this purpose.)

SEC. 135. ADVICE FROM PRIVATE SECTOR

Purpose of Amendment.—To establish general policy advisory committees on multilateral trade negotiations for each of industry, labor, and agriculture; to provide for an exemption for committees established pursuant to Sec. 135(c) from the provisions of section 11 of the Federal Advisory Committee Act.

Text of Amendment.—(1) Section 135(c), p. 33, line 18ff., is amended to read as follows:

"In addition to the Committee established under subsection (b):

(a) the President may, on his own initiative or at the request of organizations representing generally industry, labor or agriculture, establish a general policy advisory committee for each of industry, labor and agriculture to provide general policy advice on any trade agreement referred to in section 101 or 102. Such committees shall, insofar as practicable, be representative of all industry, labor or agricultural interests and shall be organized by the President acting through the Special Representative for Trade Negotiations and the Secretary of Commerce, Labor and Agriculture, as appropriate.

(b) The President shall, on his own initiative or at the request of organizations in a particular product sector, establish such industry, labor or agricultural advisory committees as he determines to be necessary for any trade negotiations referred to in section 101 and 102. Such committees shall, so far as practicable, be representative of all industry, labor, or agricultural interests in the sector concerned. In organizing such committees, the President, acting through the Special Representative for Trade Negotiations and the Secretary of Labor, Commerce, or Agriculture, as appropriate, (1) shall consult with interested private organizations and (2) shall take into account such factors as patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade, the character of the nontariff barriers and other distortions affecting such competition, the necessity for reasonable limits on the number of such product sector advisory committees, the necessity that each committee be reasonably limited in size, and that the product lines covered by each committee be reasonably related."

(2) Section 135(e), p. 34, line 24ff., is amended by inserting on p. 35, line 7, "and section 11" after "(a) and (b) of section 10".

Rationale.—(1) Section 135(c), as drafted, clearly provides for the establishment of product sector committees for each industry, labor, and agriculture. The language may well be broad enough to authorize the establishment of committees representing generally industry, labor and agriculture. However, an express provision for general policy advisory committees is preferable. While product sector committees will be most helpful in providing guidance for negotiations as they relate to each sector, there should also be a mechanism to present the broader policy views of industry, labor, and agriculture.

(2) Section 135(e) exempts committees established pursuant to 135(c) from the requirements of subsections 10(a) and 10(b) of the Federal Advisory Committee Act. Section 10(b) of that requires that, with certain exceptions, records including transcripts of committee meetings be available to the public. Section 11 of that Act requires that transcripts be publicly available at cost. Thus, implicit in any exemption from the operation of Section 10(b) is an exemption from Section 11. However, in order to avoid confusion, Sec. 135(e)(2) of the H.R. 10710 should be amended to include an express exemption from the provisions of section 11 of the Federal Advisory Committee Act.

SEC. 151. RESOLUTIONS DISAPPROVING THE ENTERING INTO FORCE OF TRADE AGREEMENTS, ETC.

Purpose of Amendment.—To clarify the situation in which several trade agreements enter into force on the same date.

Text of Amendments.—Sec. 151(b)(2)(A), p. 43, lines 1–4 is amended to read as follows:

"(A) in the case of a resolution relating to the entering into force of a trade agreement under section 102(f), with the phrase "the entering into force of the trade agreement ——————— (with this blank space filled with the title, or brief description of the subject matter, of the agreement);"

Rationale.—The purpose of the amendment is to allow either of the Houses of Congress to disapprove one or more of several agreements that enter into force on the same day without there being any confusion as to the nature of the disapproval action.

TITLE II. RELIEF FROM INJURY CAUSED BY IMPORT RELIEF

SEC. 202. PRESIDENTIAL ACTION AFTER INVESTIGATIONS

Purpose of Amendment.—To extend the time within which the President must decide whether to impose import relief in order to accommodate the requirement that public hearings be held.

Text of Amendment.—Subsection 202(b), p. 55, line 3, is amended by striking therefrom "60 days (30 days" and inserting in lieu thereof "90 days (60 days".

Rationale.—Section 203(g) requires that the President provide a public hearing with respect to "the proposal to provide" import relief so that interested persons will be given a reasonable opportunity to be present, to produce evidence, and to be heard. A reasonable opportunity requires reasonable notice, which is often 30 days. Therefore, in order to give adequate notice and to allow interested parties to present their views, the period in which the President must determine whether he is going to grant import relief in accordance with Sec. 202 should be extended to a minimum of 90 days, (60 days in the case of a supplemental report under subsection (d)). Alternatively, the section 202(g) hearing requirement could be deleted, because it duplicates the section 201 hearings held by the Tariff Commission.

SEC. 203(E). IMPORT RELIEF (ORDERLY MARKETING AGREEMENTS)

Purpose of Amendment.—To increase the flexibility to use orderly marketing agreements, where the President has selected that method of import relief and has reported to the Congress why he selected that method of providing relief from injury rather than either adjustment assistance or increases in duties, tariff-rate quotas, or quantitative restrictions.

Text of Amendment.—Section 203(e), p. 59, line 18ff., is amended to read as follows:

"(1) Import relief provided pursuant to this section shall become initially effective no later than 15 days after the date of the President's determination to provide import relief, except that the applicable period in which import relief shall become initially effective shall be 180 days if the President announces at the time of his determination to provide import relief his intention to negotiate one or more orderly marketing agreements pursuant to subsection (b)(4) or (5).

(2) Whenever the President has acted pursuant to subsections (b)(1), (2), (3), or (5), he may, at any time during which such import relief is in effect, negotiate orderly market agreements with foreign countries, and may, upon the entry into force of any such agreement, suspend or terminate, in whole or in part, such other actions previously taken.

(3) Whenever the President has negotiated an orderly marketing agreement pursuant to subsection (b)(4) or (5) and such import relief fails to continue to be effective, he may, consistent with the limitations contained in subsection (i), provide import relief under subsection (b)(1), (2), (3) or (5)."

Rationale.—It was the purpose of the House to make the provision of an orderly marketing agreement the least preferred method of import relief. However, the orderly marketing provision as included in the House bill, would not as a practical matter prove workable even were the President to make the requisite finding and report to Congress that this method was indeed the one

that he desired to select. The import relief in the form of tariffs, tariff-quotas, or quotas, must be proclaimed initially before the President is able to withhold the effect of that proclamation and then try to negotiate an orderly marketing agreement. This initial proclamation must promise to have a highly restrictive effect on trade if it is to serve as an incentive to get other countries to enter into orderly marketing agreements. However, if the President sets the levels of import relief in too restrictive a manner, and fails to achieve success in his negotiations for an orderly marketing agreement, there is the problem of the harsh initial proclamation going into effect automatically on the 180th day. On the other hand, if the initial proclamation is set too low, it will not serve as an incentive for negotiations. It would be far preferable to set the level of unilateral import relief on the 180th day, if the negotiations fail.

SEC. 203(F). IMPORT RELIEF (ITEMS 806.30, 807.00)

Purpose of Amendment.—To clarify that the import-related injury must be caused by the application of these two tariff item numbers before their suspension may be considered an adequate remedy.

Text of Amendment.—Subsection (f)(3), p. 60, line 18ff., is amended to read as follows:

"No proclamation providing for a suspension referred to in paragraph (1) or (2) with respect to any article shall be made under subsection (b) unless the Tariff Commission, in addition to making an affirmative determination with respect to such article under section 201(b), determines in the course of its investigation under section 201(b) the serious injury (or threat thereof) *substantially caused by imports* to the domestic industry producing a like or directly competitive article results from the application of item 806.30 or item 807.00, or from the designation of the article as an eligible article for purposes of Title V, as the case may be." (new language italicized).

Rationale.—This is solely a clarification of what is felt to be the intent of the House. The amount of causation required before import relief can be proclaimed under Chapter 1 of Title II of the bill is that the serious injury be substantially caused by imports. However, in subsection (f)(3) of section 203, the Tariff Commission is required to find that "the serious injury (or threat thereof) to the domestic industry . . . results from the application of item 806.30 or item 807.00 . . .". This could be read to imply that all of the injury to the domestic industry must be caused by articles entered under these tariff items rather than just the majority of import injury.

SEC. 203(G). IMPORT RELIEF (NOTICE OF HEARINGS) [1]

Purpose of Amendment.—To delete the requirement that "due diligence" be exercised in notifying persons who may be adversely affected by providing import relief, and to delete the requirement that the President provide public hearings before such relief is granted.

Text of Amendment.—Section 203, page 57ff., is amended by deleting subsection (g) therefrom and by redesignating the subsections that follow with the letters (g) through (j), respectively.

Rationale.—These requirements duplicate the procedures provided in section 201(c) and (d)(2) with to the Tariff Commission investigation.

Chapter 2. Adjustment Assistance for Workers

SEC. 232. WEEKLY AMOUNT

Purpose of Amendment.—To correct a typographical error.

Text of Amendment.—Subsection (g)(1), is amended by striking on p. 74, line 17, "the authorization contained in" and substituting in lieu thereof the word "authorized".

SEC. 250. COORDINATION OF WORKER AND FIRM ASSISTANCE

Purpose of Amendment.—To provide that the studies provided for under sections 224 and 264 are coordinated.

Text of Amendment.—Section 250, p. 92, lines 8ff., is amended by adding after the word "policies" on line 15, the word ", studies".

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[1] Alternative to amending section 202(b) to extend the time within which the President must make an important relief determination.

Rationale.—The studies required under section 224 and 264 of the Secretaries of Labor and Commerce (or the Administrator of the Small Business Administration) respectively, will necessarily involve parallel investigations. Coordination is desirable to avoid unnecessary duplication of efforts.

Chapter III. Adjustment Assistance for Firms

SEC. 255(b). CONDITIONS FOR FINANCIAL ASSISTANCE

Purpose of Amendment.—To clarify the rate applicable to direct loans.

Text of Amendments.—Sec. 255(b), p. 97, lines 10–16, is amended to read as follows:

"The rate of interest on guarantees of loans made under this chapter shall be no higher than the maximum interest per annum that a participating financial institution may establish on guaranteed loans made pursuant to section 7(a) of the Small Business Act (15 U.S.C. 636 (a)). The rate of interest on direct loans made under this chapter shall be (i) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity that are comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program."

Rationale.—Currently, Sec. 255(b) states that the rate of interest on direct loans shall be the prevailing rate authorized for loans to small businesses by the SBA. The SBA has several rates for direct loans. One is 5½ percent, another is 5 percent, and yet another is 3 percent. Still others are formula rates of interest, i.e., cost of money to the Government plus a small additional fraction to cover administrative costs. These formula rates of interest are currently applicable to loans to small businesses which are impacted by Federal urban renewal, highway or other construction projects, Federal health, welfare and safety legislation (or State legislation enacted in conformity therewith), and U.S. Government international strategic arms limitations agreements. These formula rates are applied in cases which are analogous to trade adjustment assistance, and therefore the ambiguity should be resolved in favor of a formula rate. The language establishing a maximum rate for guarantees of loans under this chapter has been clarified by citing the basis for SBA's guarantee rate.

SEC. 255(d). CONDITIONS FOR FINANCIAL ASSISTANCE

Purpose of Amendment.—To conform the language of the TRA with that of the Small Business Act.

Text of Amendment.—Sec. 255(d), p. 98, lines 4–7, is amended to read as follows:

"In making guarantees of loans, and in making direct loans, the Secretary shall give priority to firms which are small within the meaning of the Small Business Act (and regulations promulgated thereunder)."

SEC. 255(e). CONDITIONS FOR FINANCIAL ASSISTANCE

Purpose of Amendment.—To clarify the responsibilities of the Secretary upon default of a guaranteed loan.

Text of Amendment.—Amend Sec. 255(d), p. 98, line 8ff., by substituting the following:

"(e) No loan shall be guaranteed by the Secretary in an amount which exceeds 90 percent of the balance of the loan outstanding at the time of disbursement."

Rationale.—This change clarifies that the Government will be responsible for no more than 90 percent of the loss under a guaranteed loan.

SEC. 255(h). CONDITIONS FOR FINANCIAL ASSISTANCE

Purpose of Amendment.—To clarify that there will be a Federal charge for guaranteeing loans.

Text of Amendment.—Amend section 255, p. 97, line 3ff., by adding a new paragraph (h) at page 88, following line 21 to read as follows:

"(h) With respect to guaranteed loans, a guarantee charge shall be payable to the Secretary by the lender for such guarantee agreement."

Rationale.—This will make it clear that there will be a fee charged for guaranteeing loans, in accordance with standard Federal credit policy.

SEC. 256. DELEGATIONS OF FUNCTIONS TO SMALL BUSINESS ADMINISTRATION

Purpose of Amendment.—To clarify that all administrative functions would be delegated to the SBA with respect to any firms to which a loan or guarantee was made by the SBA.

Text of Amendment.—Section 256, p. 98, line 22ff., is amended to read as follows:

"SEC. 256. DELEGATIONS OF FUNCTIONS TO SMALL BUSINESS ADMINISTRATION; AUTHORIZATION OF APPROPRIATIONS

(a) In the case of any firm which is small (within the meaning of the Small Business Act and regulations promulgated thereunder), the Secretary may delegate all or any part of his functions under this chapter (other than the functions under section 251 with respect to the certification of eligibility and section 252(d) with respect to the termination of such certification) to the Administrator of the Small Business Administration. If the Secretary delegates any functions under this Chapter to the Administrator, all the functions under sections 252 (except 252(d)), 253, 254, 255, 257, 258, and 260 shall be delegated. In addition, so much of the functions under section 262 are as necessary for the Administrator to carry out any such delegation shall also be delegated by the Secretary to the Administrator.

(b) There are hereby authorized to be appropriated to the Secretary, or to the Administrator if any functions under this chapter are delegated pursuant to this section, such sums as may be necessary from time to time to carry out the functions under this chapter in connection with furnishing adjustment assistance to firms, which sums are authorized to be appropriated to remain available until expended."

Rationale.—Section 256 authorizes the Secretary to delegate any or all of his functions under Chapter 3, of Title II to the Administrator of the Small Business Administration. As now drafted, this section would permit, although it is not intended to be used in such manner, a delegation of only the loan-making or guarantee function, thus removing SBA from the process preceding the provision of assistance or in the administration of such assistance. In addition, it might be possible for program authority to be delegated to SBA without an accompanying transfer of the appropriations necessary to carry out its function. These technical amendments clarify the nature of delegations, if any, which are made, and assure appropriations for the delegated program function.

SEC. 257. ADMINISTRATION OF FINANCIAL ASSISTANCE

Purpose of Amendment.—To provide that interest payments or repayments on loans will be available to the Secretary for use in carrying out his responsibilities under the Act.

Text of Amendment.—Amend section 257, p. 99, line 13ff., by adding a new paragraph (c) to read as follows:

"(c) All repayments of loans, payments of interest, and other receipts arising out of transactions entered into by the Secretary pursuant to this chapter, shall be available for financing functions performed under this chapter, including administrative expenses in connection with such functions.

Rationale.—This change is to authorize the use of interest payments and loan repayments to make new loans or for expenses of the program. This will assure a more systematic accounting for revenues received under the program, and will increase flexibility in program operations.

SEC. 259. PENALTIES

Purpose of Amendment.—To insure that the sanctions provided under the firm adjustment assistance remain applicable if the Secretary delegates functions under Chapter 3 to the Administrator of the Small Business Administration.

Text of Amendment.—Sec. 259, p. 102, lines 1-9, is amended to read as follows:

"SECTION 259. PENALTIES

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, or whoever willfully overvalues and security, for the purpose of influencing in any way official action under this chapter, or for the purpose of obtaining money, property, or anything of

value under this chapter, shall be fined not more than $5,000 or imprisoned for not more than 2 years or both."

Rationale.—The purpose of this amendment is to assure that the penalties provision is also applicable to SBA use of the authority contained in this chapter. While this provision could be the subject of delegation, it may be useful to clarify in the statute that this was a provision of general application.

TITLE III. RELIEF FROM UNFAIR TRADE PRACTICES

SEC. 301. RESPONSE TO TRADE PRACTICES OF FOREIGN GOVERNMENTS

Purpose of Amendment.—To remove the requirement that the United States act on a selective basis in response to unreasonable but not unjustifiable import restrictions; to provide that the requirement of holding a public hearing prior to acting may be waived for purposes of the national interest.

Text of Amendment.—(1) On p. 107, lines 13ff., delete the semi-colon on line 13 and the remainder of the subsection following the semi-colon.

(2) Add to subsection 301(d), p. 108, lines 7–15, the following:

"unless the President determines that such prior hearings would be contrary to the national interest because of the need for expeditious action, in which case he shall provide for a public hearing promptly after such action."

Rationale.—There is no clear logical basis for distinguishing between foreign unjustifiable and unreasonable trade practices to warrant requiring U.S. response in the latter case to be on a selective (discriminatory) basis. Under Section 301(b), as drafted, the President, after considering the international obligations of the U.S., is authorized to respond to unjustifiable foreign trade practices on either a nondiscriminatory basis or otherwise. However, he may respond to unreasonable trade practices of a foreign government or instrumentality only on a selective basis. A nondiscriminatory response can be made by selecting articles of particular interest to the offending country, and so the impact can be limited to such country.

The second amendment allows the President to act quickly without the necessity of a prior public hearing. He can thus respond expeditiously when it is in the best interests of the United States that immediate retaliation or response be given to a foreign action. In these cases he will still be required to provide a public hearing but it would not have to be held prior to his action.

SEC. 331(b). AMENDMENTS TO SECTION 303 OF THE TARIFF ACT OF 1930. (INJURY STANDARD)

Purpose of Amendment.—To provide a *material* injury standard for countervailing with respect to duty-free imports.

Text of Amendment.—Sec. 331(b)(2)(A), p. 121, line 14, is amended by inserting the word "materially" before the word "injured."

Rationale.—The obligation of the United States under GATT Article VI is to apply a *material* injury standard. There is no injury standard currently in the countervailing duty law, nor need there be under the GATT requirements, because the United States is subject to a grandfather clause for legislation which existed upon our entry into the GATT in 1947.

However, when we extend our law to apply to categories of products to which the law does not currently apply, the United States becomes subject to the United States becomes subject to the GATT requirement in this regard. It would thus be preferable for the statute, on its face, to be consistent with the language of the GATT and employ a material injury standard.

SEC. 331(e). COUNTERVAILING DUTIES (TEMPORARY PROVISION WHILE NEGOTIATIONS ARE IN PROCESS)

Purpose of Amendment.—To delete the one year carve out from the discretion to avoid countervailing where such action would seriously jeopardize the satisfactory completion of negotiations.

Text of Amendment.—Section 303(3) of the Tariff Act of 1930, as amended by section 331(a) of the TRA, is amended by deleting therefrom the last sentence thereof, at p. 123, line 23ff.

Rationale.—This provision in the House Bill removes from the 4-year period of discretion (to avoid countervailing) certain types of subsidies—namely in-

vestment and operating subsidies with respect to facilities owned or controlled by a developed country. This one-year exception to the four-year discretion would raise serious problems for the administration of the law, with insufficient time to achieve a negotiated solution with other countries, and seek Congressional approval of the international agreement and changes in the countervailing duty law.

SEC. 341. AMENDMENTS TO SEC. 337 OF THE TARIFF ACT OF 1930 (BOND)

Purpose of Amendment.—To provide in the statute for a reasonable and specific bond.

Text of Amendment.—Sec. 341(a), p. 127ff., is amended by deleting at the end of page 128, line 1 "prescribed by the Secretary" and adding the following new sentence:

"Such bond shall be prescribed by the Secretary of the Treasury, shall be in the amount of 12 percent of the domestic value of the imported article and shall be payable to the patentee upon the final determination that such articles be excluded pursuant to subparagraph (2)."

Rationale.—In fairness to the importer, importation should be permitted while a temporary exclusion order is in effect, if a reasonable bond running in favor of the patentee is posted. Under existing law the bond would be set at the value of the import and therefore the effect of a temporary exclusion order would be that trade in the article would cease. Since the Commission would not at that point have full information sufficient to issue a permanent exclusion order, a reasonable bond which allows trade should be set while the issues before the Tariff Commission are being resolved.

SEC. 341. AMENDMENTS TO SEC. 337 OF THE TARIFF ACT OF 1930 (IMPORTS FOR THE UNITED STATES GOVERNMENT)

Purpose of Amendment.—To make exclusion orders under Sec. 337 inapplicable to imports by or for the United States Government and to provide a remedy before the Court of Claims for a patent owner adversely affected by such exclusions.

Text of Amendment.—Sec. 337(h) of the Tariff Act of 1930 as amended by the TRA is further amended by adding after line 2, p. 120 of the TRA the following subparagraph:

"(5) Any order under paragraphs (1) or (2) of this subsection shall not apply to any articles imported by and for the use of the United States or imported for and to be used for the United States with the authorization or consent of the Government. Whenever any exclusion order has been given pursuant to paragraph (h)(2) but, through operation of this paragraph, articles which otherwise would be subject to such order are not excluded from entry, a patent owner adversely affected by such entry shall be entitled to reasonable and entire compensation in an action before the Court of Claims pursuant to the procedures of Section 1498, Title 28 of the United States Code."

Rationale.—The provisions of the paragraph are similar to those in 28 U.S.C. 1498(c). Under that section an exclusive remedy is provided in the United States Court of Claims for reasonable and entire compensation for infringement of a patent by the United States Government.

TITLE IV. TRADE RELATIONS WITH NATIONS NOT ENJOYING NONDISCRIMINATORY TREATMENT

SEC. 405. MARKET DISRUPTION

Purpose of Amendment.—To provide that findings under section 405 may result in import relief being granted only with respect to countries receiving nondiscriminatory treatment pursuant to Title IV, the imports of which are the subject of an affirmative finding pursuant to section 405(a), unless there is also a finding under section 201(b) with respect to imports from countries which receive nondiscriminatory treatment on the date of enactment of this Act, in which case the import relief may be imposed on other countries as well.

Text of Amendment.—Sec. 405(b), p. 135, line 17ff., is amended to read as follows:

"For purposes of sections 202 and 203, an affirmative determination of the Tariff Commission pursuant to subsection (a) of this section shall be treated as an affirmative determination of the Tariff Commission pursuant to section

201(b) of this Act; except that the President, in taking action pursuant to section 203(b),

"(1) shall, if there is no affirmative finding under section 201(b) of this Act without regard to this subsection, adjust imports of the article from the country in question without taking action in respect of imports from other countries; and

"(2) may, if there is both an affirmative determination of the Tariff Commission pursuant to subsection (a) of this section, and pursuant to section 201(b) of this Act without regard to this subsection, either adjust imports of the article from the country in question without taking action in respect of imports from other countries or may adjust imports from all countries.

Rationale.—Section 405 provides easier access criteria for the provision of import relief than does section 201. Thus, if a non-market economy country is causing import injury, action can be taken under section 405 to restrict the import from that country (or several non-market economy countries receiving nondiscriminatory tariff treatment under Title IV if findings are made with respect to each of those countries) without taking action to restrict imports from all countries. However, under section 405 as currently drafted, imports from one country receiving nondiscriminatory treatment under Title IV could be causing all the injury and the President would be given the option to impose restrictions on imports from all countries. The proposed amendment remedies this defect by allowing the President to impose selective measures where injury is caused only from imports from one or more Title IV countries and to impose measures on all countries only where imports from both Title IV countries and other countries are causing the import injury.

TITLE V. GENERALIZED SYSTEM OF PREFERENCES

SEC. 504. LIMITATIONS ON PREFERENTIAL TREATMENT

Purpose of Amendment.—To provide for redesignation of articles from a country where the competitive need formula (sec. 504(c)) has caused termination of eligibility of the article for preferential treatment.

Text of Amendment.—(1) Section 504(c), p. 143, line 14ff., is amended by adding to the end thereof (page 144, line 6) the following new sentence:

"A country which has ceased to be eligible for treatment as a beneficiary developing country with respect to a particular article by reason of this section, shall be eligible for redesignation with respect to such article under the procedures set forth in sections 502 and 503, provided that, unless the President determines that paragraphs (1) and (2) of this subsection no longer apply to such country with respect to the article in question, he must determine that it is in the national interest to redesignate such country as a beneficiary developing country with respect to such article, and provided further, that the applicable period within which the Tariff Commission shall advise the President pursuant to section 131(b) shall be 60 days.

(2) Section 504(c) is amended by striking the phrase on p. 143, line 22, which reads "50 percent of the value", and inserting in lieu thereof "50 percent of the appraised value", and striking the words "not later than 60 days" on p. 143, line 25, and inserting in lieu thereof "not later than 90 days".

Rationale.—These technical amendments are designed to accomplish three purposes: (1) to clarify the method by which articles which cease to become eligible for preferential treatment granted to a particular country can regain eligibility; (2) to clarify what value the 50 percent formula is to apply to; and (3) to provide sufficient time for statistics to become available to apply the competitive need formula.

TITLE VI. GENERAL PROVISIONS

SEC. 601. DEFINITIONS

Purpose of Amendments.—(1) To clarify that the term modification of duties includes conversion from specific to ad valorem rates of duty; (2) to define duties existing on July 1, 1934; and (3) to clarify the applicability of the term "nondiscriminatory treatment".

Text of Amendments.—(1) Section 601(6), p. 146, lines 16–18, is amended by adding at the end thereof "and the conversion of specific rates of duty to their ad valorem equivalents on the basis of the most recent representative period for which statistics are available."

(2) Section 601, p. 144ff., is amended at p. 147 by adding a new paragraph (8) and renumbering existing paragraphs (8) and (9), as (9) and (10) respectively. The new paragraph (8) shall read as follows:

"(8) For the purposes of this Act, duties existing on July 1, 1934 shall mean the duties existing in Column 2 of the Tariff Schedules of the United States."

(3) Section 601(9), p. 147, line 8, as redesignated by paragraph (2) hereof, is further amended to read as follows:

"(10) For the purposes of this Act, the term 'nondiscriminatory treatment' means most-favored nation treatment."

Rationale.—(1) The first amendment is designed to expressly include within the definition of "modification" the conversion of specific rates of duty to their ad valorem equivalents. While the authority to modify a duty or import restriction implicitly includes such authority, it is preferable to define modification to make express provision therefor.

(2) The second amendment is included to for convenience of reference. By providing that Column 2 of the Tariff Schedules is to be "duties existing on July 1, 1934" for purposes of the TRA, no confusion will arise as to whether or not a Column 2 rate was actually in existence as of July 1, 1934.

(3) The final amendment is designed to foreclose the possibility that the meaning of nondiscriminatory treatment as used in the TRA be confused with the same phrase as used in many other U.S. laws in a different sense.

SEC. 602(D). RELATION TO OTHER LAWS

Purpose of Amendment.—To correct a typographical error.

Text of Amendment.—Subsection 602(d) is amended by deleting therefrom the words "repealed by subsection (d)" and by inserting in lieu thereof "repealed by subsection (e)" on p. 148, line 15.

SEC. 602 (G) AND (H). RELATION TO OTHER LAWS

Purpose of Amendment.—To repeal the Johnson Debt Default Act and the embargo on furs and skins from the Soviet Union and Communist China.

Text of Amendment.—Section 602, p. 147ff., is amended to add the following new subsections:

"(g) The Johnson Debt Default Act (62 Stat. 744; 18 U.S.C. 955) is hereby repealed."

"(h) Headnote 4 to Schedule 1, Part 5, Subpart B of the Tariff Schedules of the United States (77A Stat. 32, 19 U.S.C. 1202) is hereby repealed."

Rationale.—The Johnson Act no longer serves the purpose for which it was intended and unnecessarily inhibits U.S. financial relations with certain countries. By prohibiting loans and similar financial transactions with countries in default of their official obligations to the United States, the Act was designed to protect the American investor. However, Congress subsequently exempted all members of the World Bank and International Monetary Fund. This has had the effect of restricting the Act to certain indebted communist countries, those not members of the Bank or Fund. Various rulings of the Attorney General have also excluded the financing of export and export-related transactions from the prohibitions of the Act but have left a gray area where financing could result in the encouragement of U.S. trade but could not be defined as export-related under the Attorney General's rulings. Thus, the Act has the effect of discouraging sales of U.S. plant and equipment which might otherwise be exported.

The embargo on certain furs is also a measure that was passed in far earlier times and should not be maintained in the changed circumstances of today. The Administration does not believe that the repeal of the fur embargo would have a significant effect on domestic procedures because, of the seven types of fur under embargo, only mink and muskrat are produced in the United States in significant commercial quantities. Muskrat is relatively out of fashion and most of our production has been exported for a good many years. About half of the U.S. mink production is now being exported in successful competition with Soviet-Canadian and Skandinavian mink. It is most unlikely therefore, that lifting the embargo would result in harmful increased competition with domestic producers.

ATTACHMENT B

PROVISIONS OF THE TRADE REFORM BILL, H.R. 10710 WHICH RELATE TO SHORT SUPPLY PROBLEMS

SEC. 2. STATEMENT OF PURPOSES

The purposes of this Act are, through trade agreements affording mutual trade benefits—

(1) to stimulate the economic growth of the United States and to maintain and enlarge foreign markets for the products of United States agriculture, industry, mining, and commerce; and

(2) to strengthen economic relations with foreign countries through the development of fair and equitable market opportunities and through open and nondiscriminatory world trade.

Agreements which provide for supply access (or agreements limiting export restraints) would serve the quoted purposes. Whether the United States has the role of supplier or consumer, supply access agreements can "stimulate the economic growth of the United States", strengthen economic relations with foreign countries through the development of fair and equitable market opportunities, and strengthen these relations through "open and nondiscriminatory world trade". The phrase "market opportunities" covers United States producers' presence in the market both as a seller and as a buyer. Economic relations are strengthened by buying from others as well as selling to them.

To further focus the purpose section of the bill on problems of short supply, the Administration is proposing that a new paragraph (3) be added to the quoted language. It reads as follows:

"(3) to promote fair and equitable access to supplies needed for orderly economic growth and development."

SEC. 101. TARIFF AUTHORITY

(a) Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes stated in section 2 will be promoted thereby, the President—

(1) during the 5-year period beginning on the date of the enactment of this Act, may enter into trade agreements with foreign countries or instrumentalities thereof; and

(2) may proclaim such modification or continuance of any existing duty, such continuance of existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate to carry out any such trade agreement.

This authority could be used to lower tariffs where United States import barriers are impeding inflows of needed raw materials or other materials in short supply. Presumably, the foreign concession could be in the form of a commitment to maintain supplies or not to impede their exportation.

SEC. 102. NONTARIFF BARRIER AUTHORITY

(a) The Congress finds that barriers to (and other distortions of) international trade are . . . diminishing the intended mutual benefits of reciprocal trade concessions, and preventing the development of open and nondiscriminatory trade among nations. . . . The President is further urged to . . . negotiate trade agreements with other countries and instrumentalities providing on a basis of mutuality for the reduction or elimination of such barriers to (and other distortions of) international trade.

(b)(1) Whenever the President determines that any existing barriers to (or other distortions of) international trade of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes stated in section 2 will be promoted thereby, the President, during the 5-year period beginning on the date of the enactment of this Act, may enter into trade agreements with foreign countries or instrumentalities providing for the reduction or elimination of such barriers or other distortions.

"Existing barriers to (or other distortions) of trade" includes export controls, both as a matter of economics and according to the legislative history of the House bill. The material on NTB's submitted to the House by the Administration included citations of foreign export barriers in the lists of NTB's.

The section 102 agreement could reduce or eliminate the barrier, for example, by limiting the conditions under which export controls could be imposed in the future. In the tariff area, a binding of duty-free treatment is a valid subject for a trade agreement. This is a precedent for binding NTB-free import, export, and internal treatment.

The section 102 authority could be used for specific concessions under agreements, commodity by commodity, where, for example, U.S. market or supply access is traded for foreign supply access or market access.

The Administration is proposing that a new phrase be added to section 102(a) to sharpen the focus of the section with respect to problems of supply access. The subsection as it would be amended, would read as follows:

"(a) The Congress finds that barriers to (and other distortions of) international trade are reducing the growth of foreign markets for the products of United States agriculture, industry, mining, and commerce, diminishing the intended mutual benefits of reciprocal trade concessions, *preventing fair and equitable access to supplies*, and preventing the development of open and nondiscriminatory trade among nations." (new language italics).

SEC. 121. GATT REVISION

(a) The President shall, as soon as practicable, take such action as may be necessary to bring trade agreements heretofore entered into, and the application thereof, into conformity with principles promoting the development of an open, nondiscriminatory, and fair world economic system, including (but not limited to):

* * * * * * *

(3) the extension of GATT articles to conditions of trade not presently covered in order to move toward more fair trade practices,

While this section does not refer explicitly to supply problems, one of the major areas of weakness in the current GATT rules is that of supply access and export control regulation. Thus, section 121 (a)(3), coupled with legislative history of Senate concern over supply problems, would constitute a directive to negotiate on supply. However, to assure that proper emphasis is given to supply problems in the forthcoming negotiations, the Administration is proposing the addition of the following additional objective for inclusion in section 121:

(7) the improvement and strengthening of GATT and other international rules and procedures with reference to problems of supply access, to promote principles of fair access to supplies, and effective consultative procedures on problems of supply shortages."

SEC. 122. BALANCE OF PAYMENTS AUTHORITY

(d) Import restricting actions proclaimed pursuant to subsection (a) shall be of broad and uniform application with respect to product coverage except where the president determines, consistently with the purposes of this section, that certain articles or groups of articles should not be subject to import restricting actions because of the needs of the United States economy. Such exceptions shall be limited to the unavailability of domestic supply at reasonable prices, the necessary importation of raw materials, avoiding serious dislocations in the supply of imported goods, and other factors. . . .

These exceptions to BOP import restrictions clearly cover two important short supply situations: where domestic supplies are scarce, and where the United States is dependant upon foreign sources for supply.

SEC. 123. ANTI-INFLATION AUTHORITY

(a) If, during a period of sustained or rapid price increases, the President determines that supplies of articles, imports of which are dutiable or subject to any other import restriction, are inadequate to meet domestic demand at reasonable prices, he may, either generally or by article or category of articles—

(1) proclaim a temporary reduction in, or suspension of, the duty applicable to any article; and

(2) proclaim a temporary increase in the value or quantity of articles which may be imported under any import restriction.

Proclamations under this section in effect at any time shall not apply to more than 30 percent of the estimated total value of United States imports of all articles during the time such actions are in effect.

This is the principal short supply authority in the bill. During a period of general inflation, it covers suspensions of import barrers for articles for which there are shortages manifested by price increases. If price controls prevent price increases from occurring, the statutory criterion for use of this authority could still be met—there might be no adequate supply at the (fixed) reasonable price.

There will be situations in which an article which is imported is in short supply, will be subject to antidumping or countervailing duties. In such cases, the Administration suggests that there should be authority to reduce temporarily or suspend those additional duties. In addition, more time is necessary to evaluate the effect of the suspension of duties or increase of imports under a quota before the Congress must act to preserve the duty suspension or quota liberalization. There would be much better information on which to evaluate the experience under the short supply action if a year were the maximum period then an action could be maintained prior to obtaining legislation.

To meet these concerns, the Administration will suggest several Amendments including allowing the suspension of antidumping and countervailing duties and providing that a shot supply action may remain in effect for one year before a legislative extension is required.

SEC. 125. SUPPLEMENTAL TARIFF AUTHORITY

For two years after the main tariff authority has expired, the President can lower duties by 20 percent, provided that the section 101 limits are not exceeded with respect to any article, and that not more than 2 percent of U.S. imports are covered by these agreements in either of the two years. As in section 101, the conditions for the exercise of the authority permit a reduction of U.S. import barriers which are unduly burdening and restricting the foreign trade of the United States, e.g., by slowing the inflow of imports of articles in short supply.

SEC. 131–134. TARIFF COMMISSION ADVICE, OTHER ADVICE

The Tariff Commission is to advise on the effect of U.S. import duty modifications on consumers (which would include industrial consumers). This advice should include the alleviation of domestic short supply situations. In addition, advice received from the departments (sec. 132) and from the public through hearings will include information on the effects of increasing access to foreign supplies by lowering U.S. import barrers.

SEC. 135. ADVICE FROM PRIVATE SECTOR

The entire public advisory committee structure can serve the purpose of funneling information to the negotiators on supply problems.

(a) The President, in accordance with the provisions of this section, shall seek information and advice from representative elements of the private sector with respect to negotiating objectives and bargaining positions before entering into a trade agreement referred to in section 101 or 102.

(b)(1) The President shall establish an Advisory Committee for Trade Negotiations to provide overall policy advice on any trade agreement referred to in section 101 or 102. The Committee shall be composed of not more than 45 individuals, and shall include representatives of government, labor, industry, agriculture, consumer interests, and the general public.

* * * * * * *

(c) In addition to the Committee established under subsection (b), the President shall, on his own initiative or at the request of organizations in a particular product sector, establish such industry, labor, or agricultural advisory committees as he determines to be necessary for any trade negotiations referred to in section 101 or 102. Such committees shall, so far as practicable, be representative of all industry, labor, or agricultural interests in the sector concerned . . .

* * * * * * *

(i) In addition to any advisory committee established pursuant to this section, the President shall provide adequate, timely, and continuing opportunity for

the submission on an informal basis by private organizations or groups, representing labor, industry, agriculture, consumer interests, and others, of statistics, data, and other trade information, as well as policy recommendations, pertinent to the negotiation of any trade agreement referred to in section 101 or 102

SEC. 161–168. CONGRESSIONAL ADVISORS, TRANSMISSION OF AGREEMENTS TO CONGRESS, REPORTS

The general provisions of the bill requiring Congressional participation in negotiations and statements to the Congress of the reasons for each agreement do not specifically refer to supply but would require Congressional participation in negotiations of trade agreements affecting supply and reporting to Congress on supply problems.

SEC. 202. IMPORT RELIEF

In determining whether to accord import relief the President must take into account:

(4) the effect of import relief on consumers (including the price and availability of the imported article and the like or directly competitive article produced in the United States) and on competition in the domestic markets for such articles;

(5) the effect of import relief on the international economic interests of the United States;

These factors require a consideration of supply availability before relief is granted.

SEC. 301. RESPONSES TO CERTAIN TRADE PRACTICES OF FOREIGN GOVERNMENTS

(a) Whenever the President determines that a foreign country or instrumentality—

(2) engages in discriminatory or other acts or policies which are unjustifiable or unreasonable and which burden or restrict United States commerce,

* * * * * * *

the President shall take all appropriate and feasible steps within his power to obtain the elimination of such restrictions or subsidies, and he—

(A) may suspend, withdraw, or prevent the application of, or may refrain from proclaiming, benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality; and

(B) may impose duties or other import restrictions on the products of such foreign country or instrumentality for such time as he deems appropriate.

The authority is broad enough for the United States to retaliate against unfair foreign export controls on needed raw materials and other products and other unfair denials of access to supply including foreign discriminatory actions. The measures available to the President under this section for use in responding against the unfair foreign action consist of *import* restrictions.

TITLE IV. COMMERCIAL AGREEMENTS WITH COMMUNIST COUNTRIES

Bilateral commercial agreements under section 404 can provide for more than market access (MFN on the part of the United States, import promises on the part of the foreign country). They can provide for "such other arrangements of a commercial nature as will promote the purposes stated in section 2". This can include questions of supply access. This interpretation is reinforced by the terms governing renewal of these agreements:

(A) a satisfactory balance of trade concessions has been maintained during the life of each agreement, and

(B) the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party to the bilateral agreement;

Trade concessions can take the form of supply assurance including agreeing to abstaining from the imposition of export restrictions.

TITLE V. GENERALIZED PREFERENCES

Reasons for making an article eligible pursuant to section 503 for preferential treatment include lowering the import barriers to supplies of needed materials.

This is consistent with the breadth of advice available under sections 131–134, the prenegotiation requirements referred to above. In addition, application of the competitive need formula (Section 504(c), which cuts off duty free imports from a country when a market share or value ceiling is reached) can be waived for national interest reasons. National interest considerations include removing barriers to imports of articles in short supply.

[Whereupon, at 1:15 p.m., the committee adjourned, to reconvene Wednesday, March 6, 1974, at 10 a.m.]

APPENDIX A

CHARTS ON U.S. TRADE, BALANCE OF PAYMENTS, AND ENERGY

Prepared by the Staff of the Committee on Finance

93d Congress
2d Session

COMMITTEE PRINT

CHARTS ON U.S. TRADE, BALANCE OF PAYMENTS, AND ENERGY

COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*

Prepared by the staff for the use of the
Committee on Finance

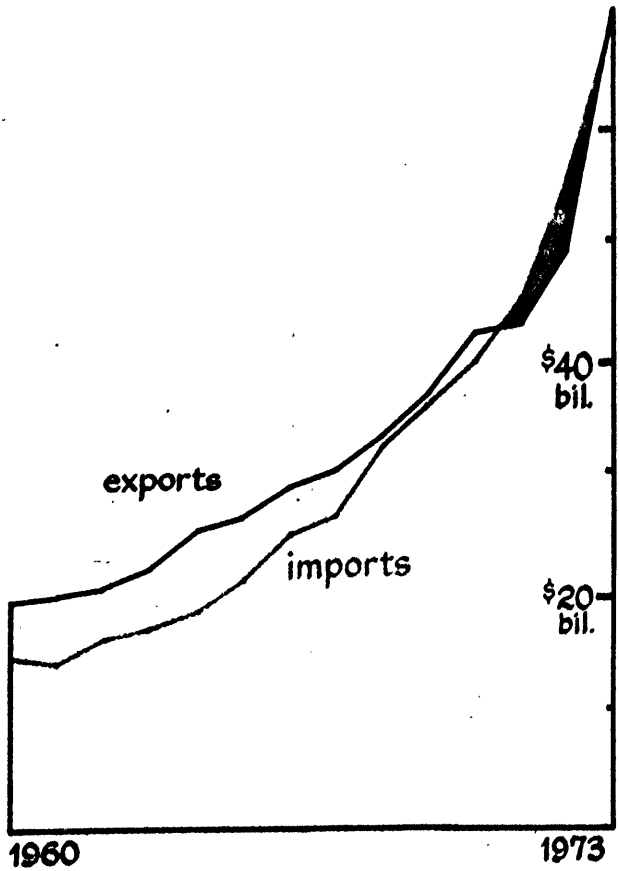
February 26, 1974

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1974

CONTENTS

CHART 1

Balance of Trade—FOB Basis

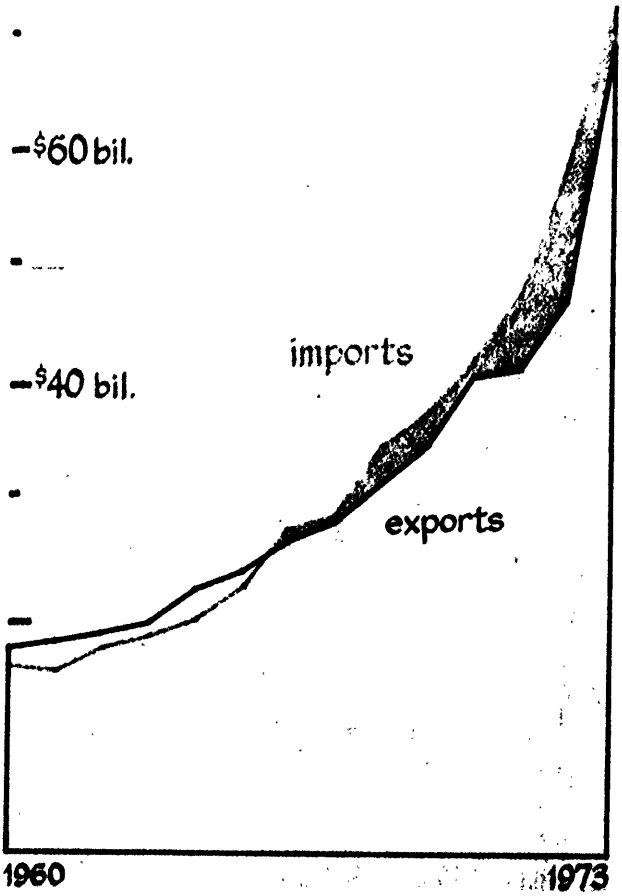


On an f.o.b. basis, the United States had a trade surplus of $1.7 billion in 1973 as compared with a deficit of $6.4 billion in 1972. The average annual growth in imports and exports is shown below:

	Imports (percent)	Exports (percent)
1961–65	7	6
1966–70	13	10
1971	14	2
1972	22	13
1973	24	44

CHART 2

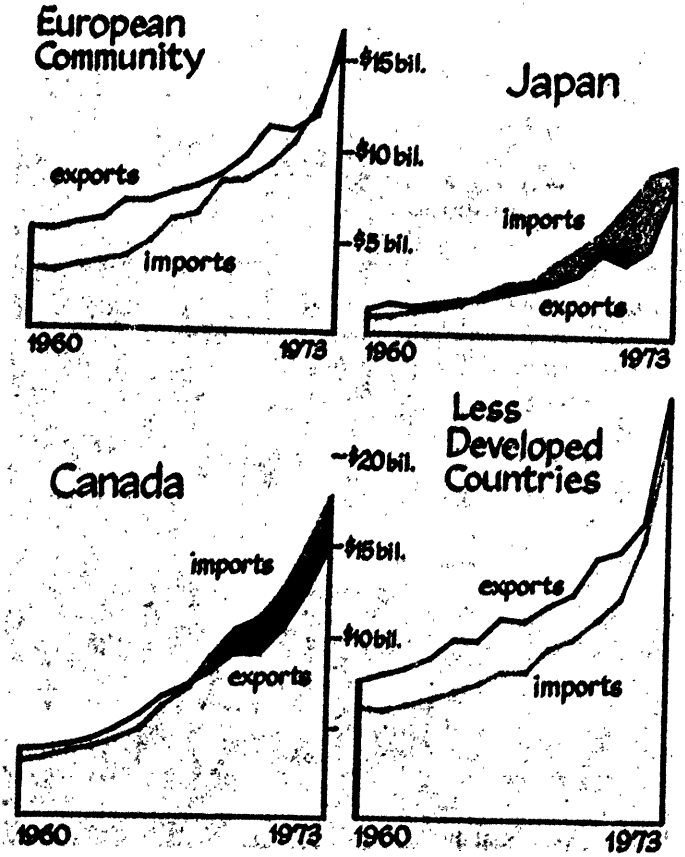
Balance of Trade – CIF Basis



On a c.i.f. basis, the United States experienced a trade deficit of $3.8 billion in 1973 as compared with a deficit of $11.4 billion in 1972.

CHART 3

U.S. Trade with Major Partners—FOB Basis

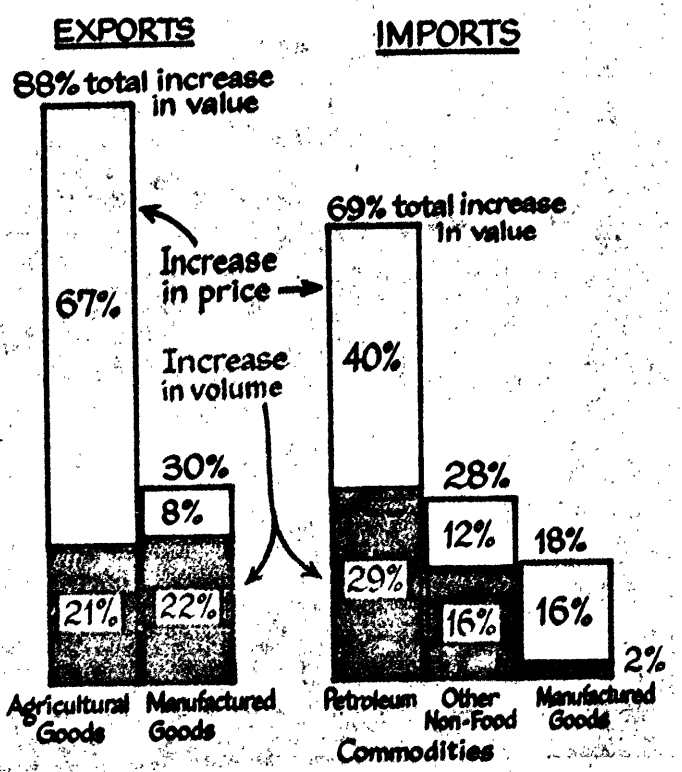


Our largest trade deficit is now with Canada at $2.7 billion; our deficit with Japan narrowed from $4.2 billion in 1972 to $1.3 billion in 1973. We regained a slight trade surplus with the European Community of $1.2 billion and with less developed countries of $2 billion in 1973.

CHART 4

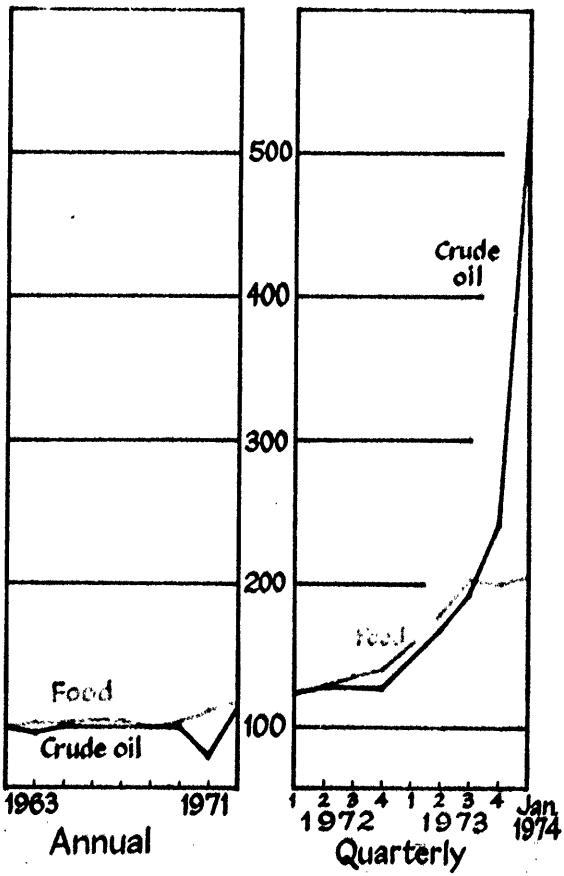
Inflation is a Major Factor in Increased Trade

U.S. Foreign Trade Performance: Percent Increase 1972 to 1973



Inflation accounts for a significant portion of the increase in U.S. trade in 1973. For example, while exports of agricultural products increased by 88 percent, three-fourths of this was due to increased prices as the volume of exports only increased by 21 percent. Similarly, the value of petroleum imports increased by 69 percent and over half of this was due to inflation.

CHART 4A



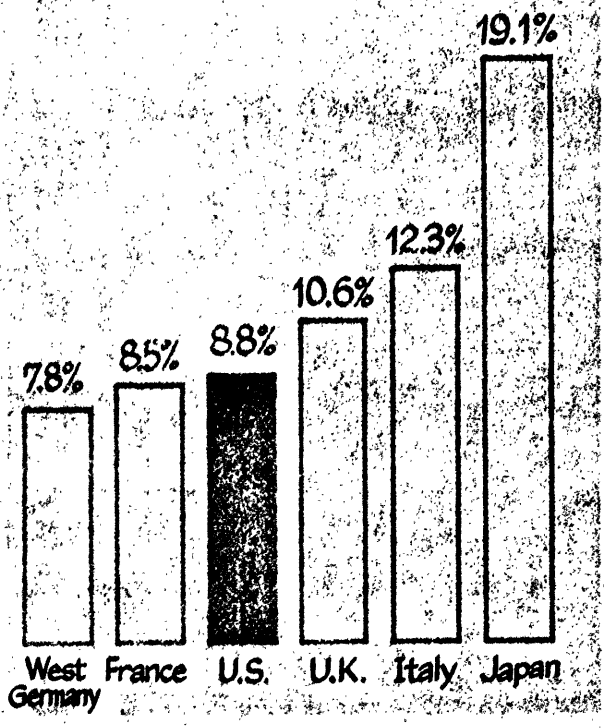
This chart reflects the sharp escalation in world food and crude oil prices which occurred in 1973. Between 1963 and the fourth quarter of 1972 world food and crude oil prices remained fairly stable. There was even a decline in crude oil prices in 1971. Beginning in the first quarter of 1973, both indexes began to take off. Higher food prices were the result of poor crops in the U.S.S.R., Australia, Argentina and India. There was also a reduced peanut crop in Africa, failure of the Peruvian anchovy catch and a rice shortfall throughout Asia. The United States sold the Soviet Union 18 million tons of grain out of a total purchase by the U.S.S.R. of 28 million tons.

In contrast to food prices, world prices in petroleum escalated because of man-made causes. By joint action the OPEC nations increased crude prices by between 300 and 400 percent within 1 year. The average price for Persian Gulf crude increased from $2.59 in January, 1973 to $11.65 in January, 1974.

CHART 5

Inflation: Consumer Price Trends

Percent change, Dec. 1972 to Dec. 1973

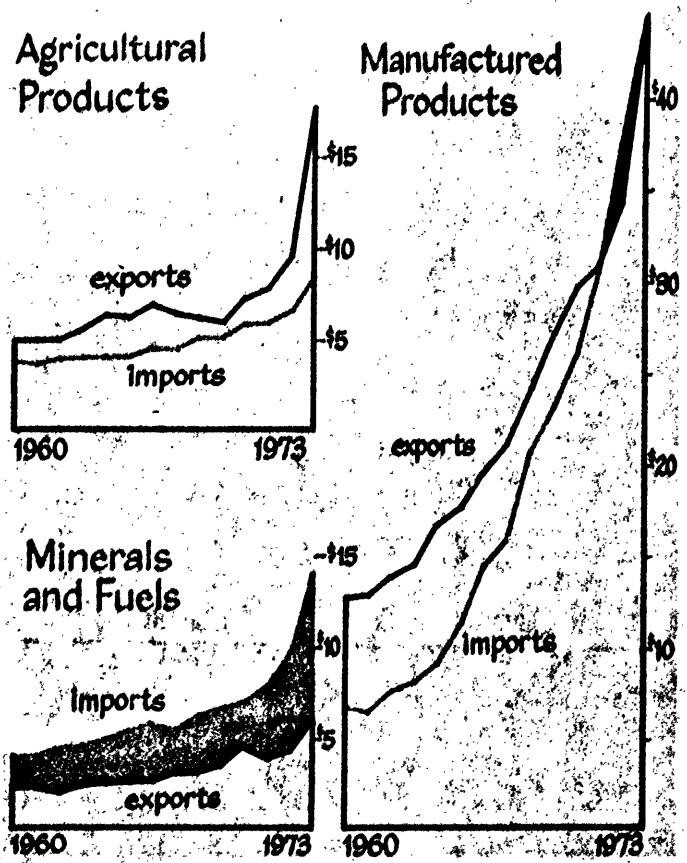


The year 1973 experienced the most severe international inflation since the early 1950's. Some of the increases were a natural result of worldwide economic boom which caused shortages and a sellers market in raw materials. Declining grain output in the U.S.S.R., China, and Australia, coupled with the decision of the Soviet Government to import 28 million tons of grain placed great pressures on U.S. supplies and caused prices of food and feed grains in the United States to soar. Also the OPEC countries more than trebled the price of crude oil in the latter part of 1973.

CHART 6

Composition of U.S. Trade – FOB Basis

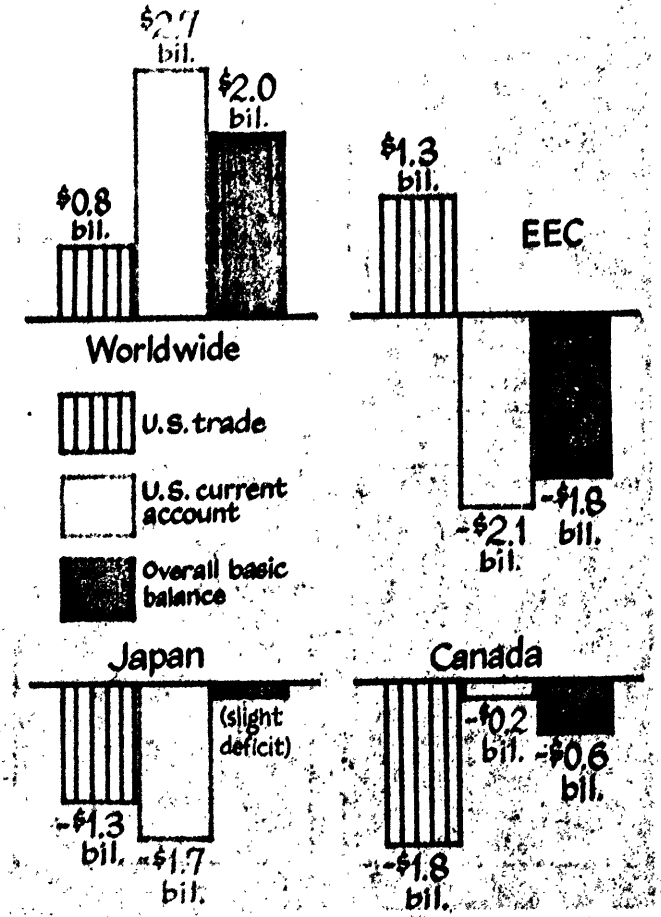
(dollars in billions)



The increase in prices coupled with the Soviet Government's demands for feed grain gave rise to a sharp increase in U.S. agricultural exports in 1973 from $9.4 billion in 1972 to $17.7 billion. Our imports of minerals and fuels, however, also increased to $14.1 billion in 1973 (from $9.7 billion in 1972) and lead to an $8 billion deficit in this area. Manufactured products exports totaled $45.5 billion and more or less equaled U.S. imports on an f.o.b. basis. As the chart shows, we have not regained the strong surplus position in manufactured products that we held in the early 1960's.

CHART 7

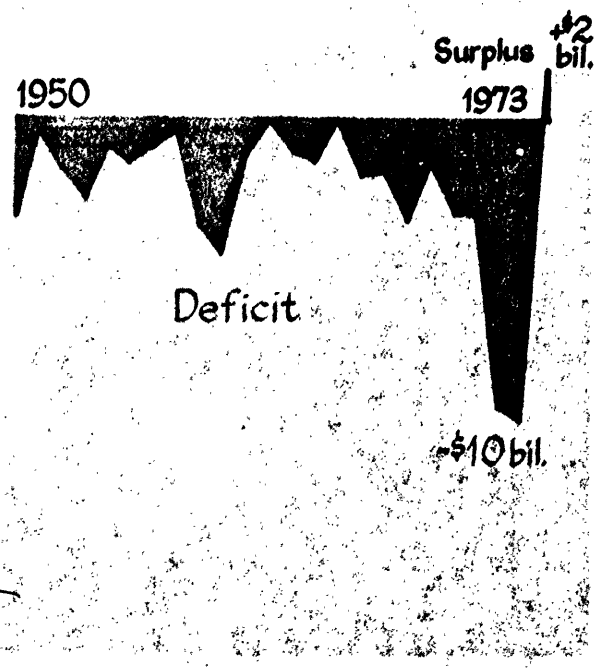
U.S. Trade, Current Account, and Basic Balance with Major Countries, 1973



On a worldwide basis our trade improved dramatically in 1973 reaching a surplus of $800 million. Our current account which includes trade services and government transfers showed a surplus of $2.7 billion in 1973 as compared to $8.4 billion in 1972. Our overall balance of payments, excluding short-term capital, showed a surplus of $2 billion in 1973 compared with a deficit of $9.8 billion in 1972. Our relations with the European Community showed a trade surplus of $1.3 billion f.o.b. basis but a current account deficit of $2.1 billion and an overall deficit of $1.8 billion. Our large deficit items with the Europeans are military—$1.8 billion net; tourism—$1.4 billion net. Our overall position with Japan improved dramatically. In 1972 we had an overall deficit with Japan of $4.1 billion. This was reduced to less than $50 million in 1973 even though we maintained a trade deficit of $1.3 billion and a current account deficit of $1.7 billion. Japanese private investment in the United States increased rapidly and eliminated most of our overall deficit with Japan. The relation with Canada shows an overall deficit of $600 million with a trade deficit of $1.8 billion. Investment income from Canada totaled $2.5 billion in 1973.

CHART 8

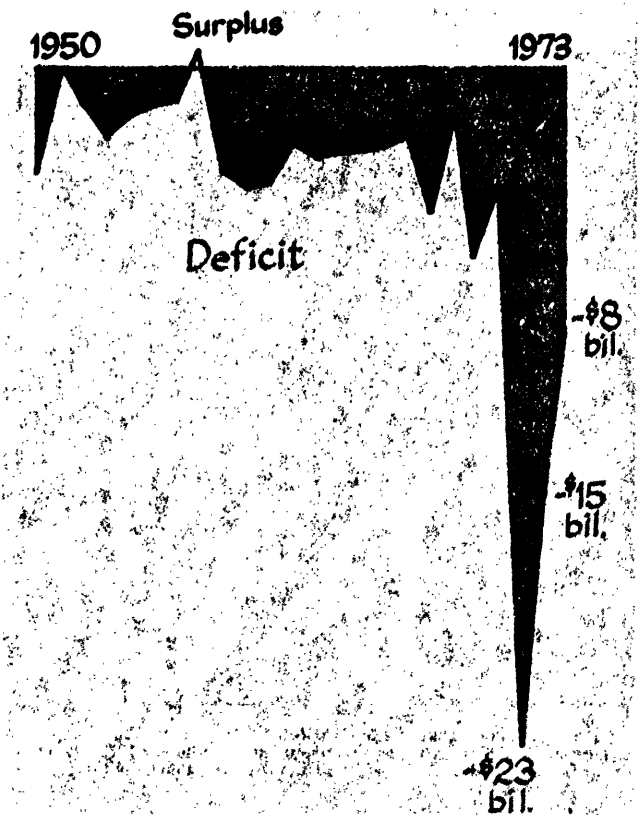
Balance of Payments
(Basic balance – excludes short-term capital inflows and outflows)



This chart shows that the basic balance of payments improved from a deficit of $10 billion in 1972 to a surplus of $2 billion in 1973. Over the 24-year period, the basic balance deficit has equaled $53.7 billion.

CHART 9

Balance of Payments
(Liquidity Basis)

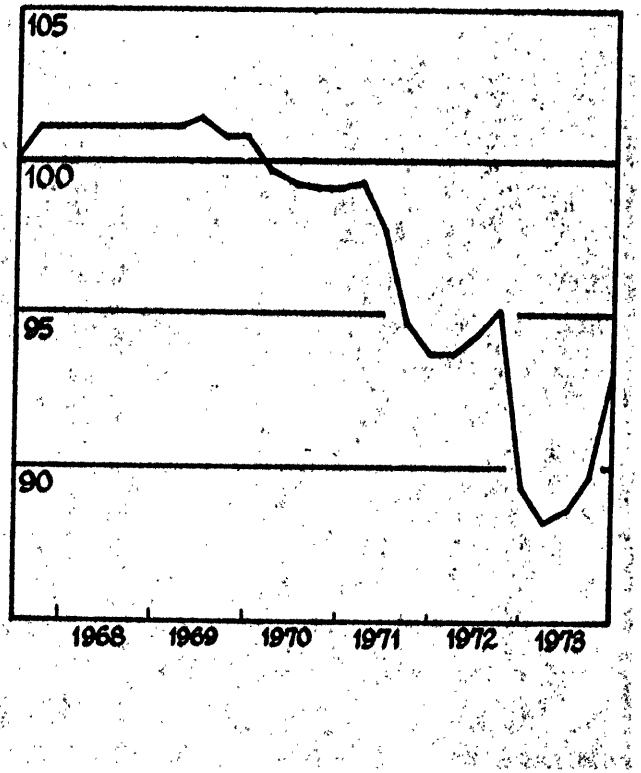


The balance of payments on a liquidity basis which includes all transactions, even short-term movements of funds improved from a deficit of $15 billion in 1972 and $23 billion in 1971 to about $8 billion in 1973.

CHART 10

Effective Rate of Exchange of the Dollar

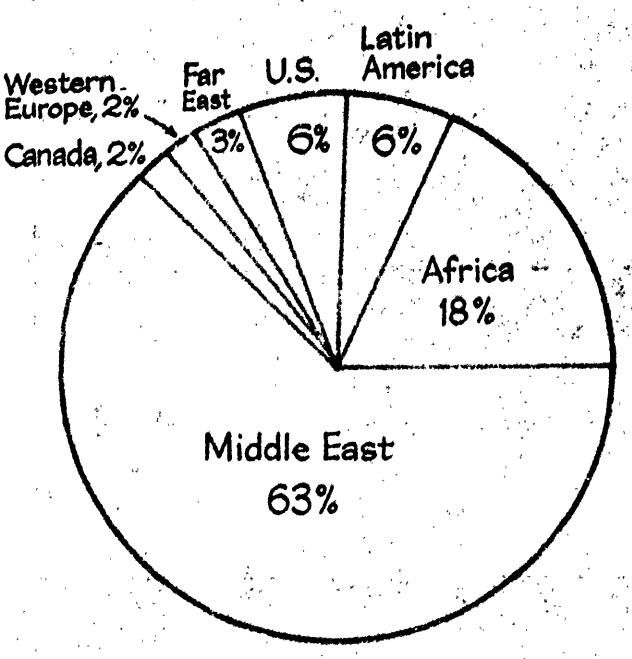
(1966=100)



The exchange rate of the dollar depreciated sharply in 1971 and for most of 1972. However, toward the end of 1972, the dollar's position in relation to other currencies improved to the point where it is now at about the levels established at the Smithsonian Agreement.

CHART 11

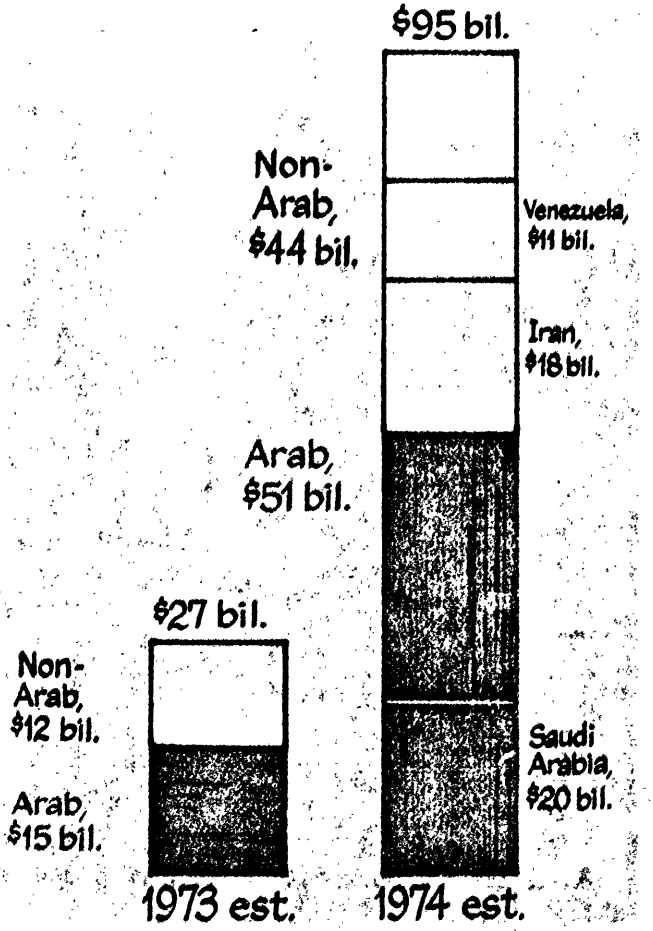
Proved Free World Crude Oil Reserves



This chart shows the distribution of world-proven oil reserves. Proven reserves are those which are geophysically proven to exist and extractable under present technology. The chart shows that 63 percent of the world's proven reserves are in the Middle East. Of this percentage, Saudi Arabia has 26 percent; Kuwait, 13 percent; Iran, 11 percent; and Iraq, 5 percent, and various other countries hold the rest. Africa is shown to hold 18 percent. According to the latest report, its share has dropped to approximately 12 percent. Libya, Nigeria, and Algeria are the largest African oil-producing countries. Communist countries, which are not shown on this chart, control 8 percent of the world's proven reserves with the U.S.S.R. holding 6.3 percent. North America, including Canada and Mexico, also controls 8 percent with the United States holding 6 percent and Canada holding 2 percent. Mexico has less than 1 percent. South America has between 5 and 6 percent with Venezuela and Ecuador being the largest suppliers. Western Europe and Japan hold about the same amount of crude oil. OPEC nations control 416 billion barrels, or 73 percent, of the total 568 billion barrels of the proven oil reserves.

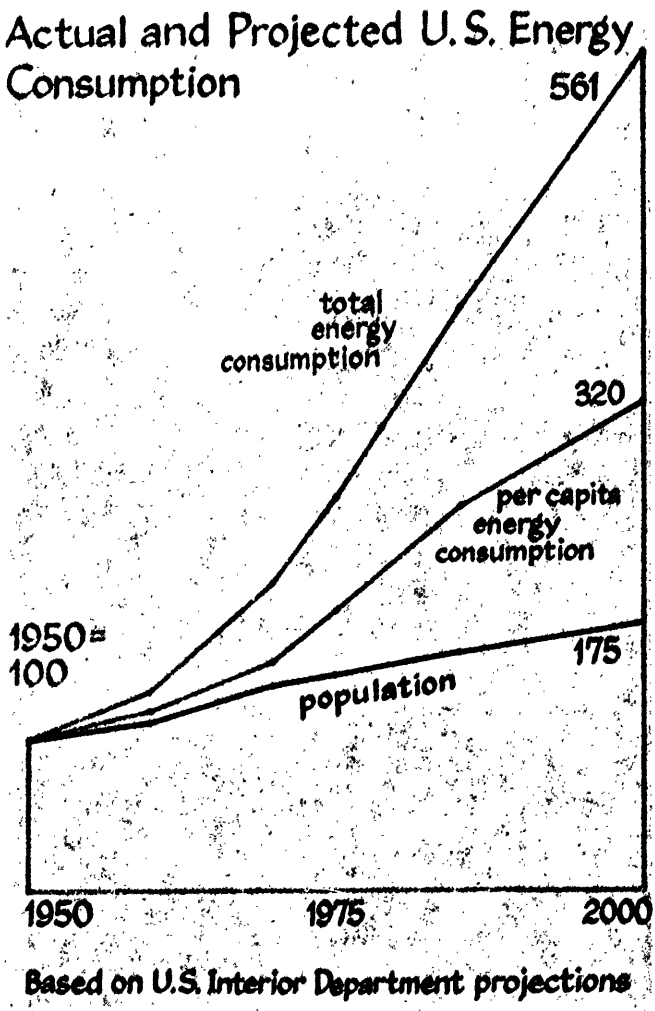
CHART 12

Revenues from Oil Exports



This chart shows that the revenues from oil exports at present consumption levels will jump from $27 billion in 1973 to $95 billion in 1974. The Arab countries will more than triple their dollar earnings from oil exports in 1 year and Iran will more than quadruple its earnings. Most producers will be able to spend only a small part of their increased revenues on foreign goods and services. Developing countries face serious problems as a result of price increases.

CHART 13



Expected U.S. consumption levels before the Arab embargo were expected to increase by 6 or 7 percent a year, however, price increases and the embargo may make these projections somewhat outdated as consumer habits will change.

CHART 14

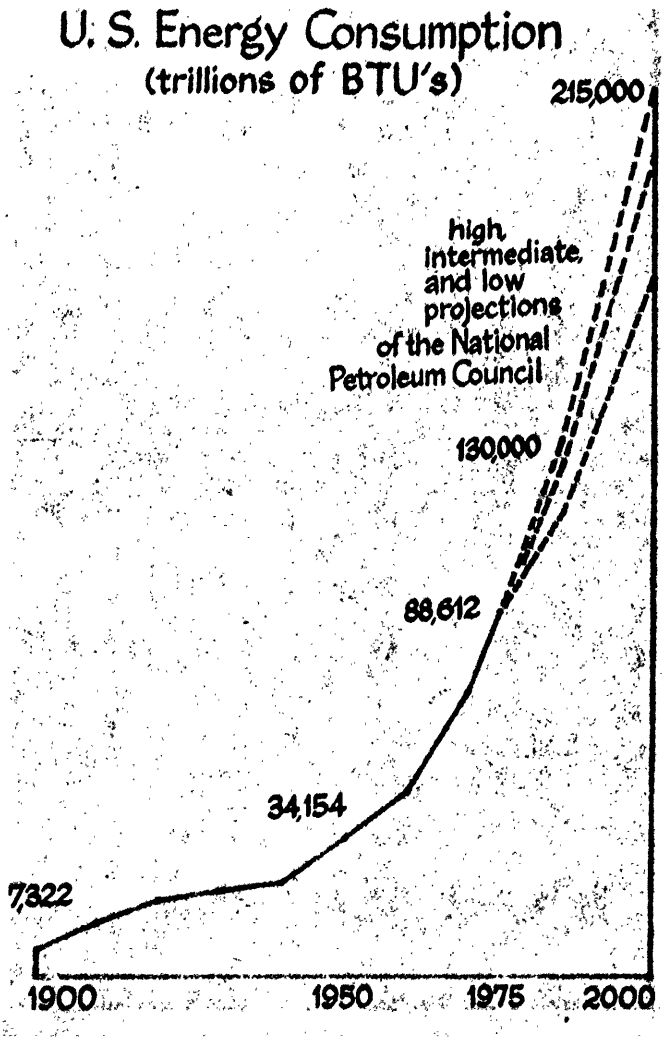
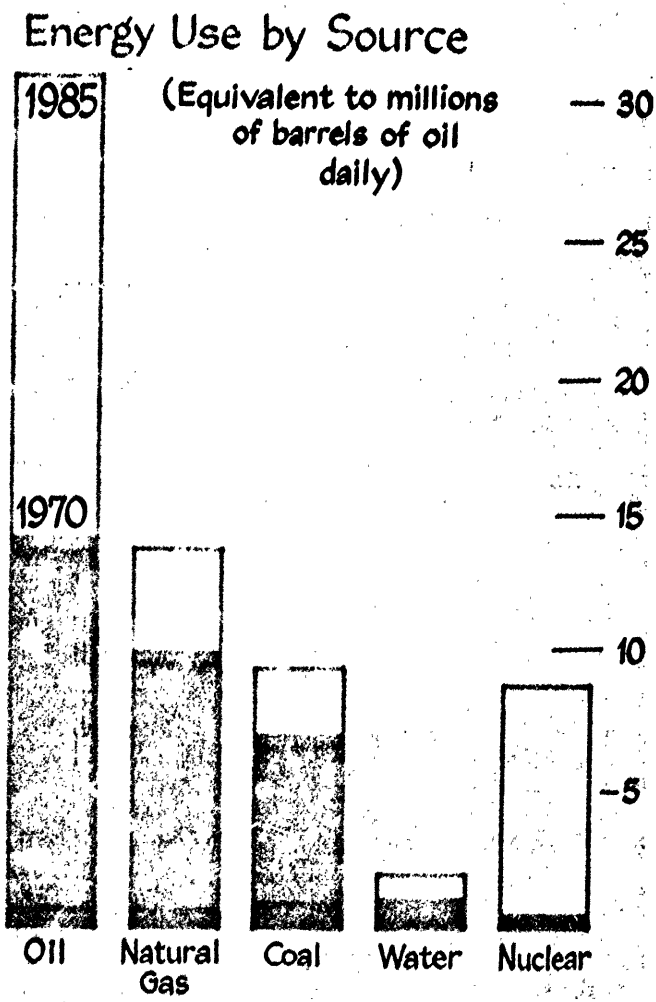

U. S. Energy Consumption
(trillions of BTU's)
215,000
high, intermediate, and low projections of the National Petroleum Council
130,000
88,612
34,154
7,322
1900
1950
1975
2000

CHART 15



This chart shows that fossil fuels account for approximately 95 percent of U.S. energy sources. Fossil fuel consumption is comprised of petroleum, 46 percent; natural gas, 32 percent; and coal, 17 percent. It is considered probable that the United States will continue to rely on fossil fuels for more than half of its energy through the year 2000.

CHART 16

Energy: U. S. Resources and Consumption

Energy source	U.S. resource base	1972 U.S. consumption
Oil	346 bil. barrels	6.0 bil. barrels
Natural gas	1,178 tril. cu. ft.	22.6 tril. cu. ft.
Coal	394 bil. tons	517 mil. tons
Uranium	1.6 mil. tons	16,000 tons
Oil shale	189 bil. barrels	none

○